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Legislative Assembly of Ontario

Third Session, 35th Parliament

Assemblée législative de l'Ontario

Troisième session, 35^e législature

Official Report of Debates (Hansard)

Wednesday 28 April 1993

Journal des débats (Hansard)

Mercredi 28 avril 1993

**Standing committee on
regulations and private bills**

Organization

**Comité permanent des
règlements et des projets
de loi privés**

Organisation



Chair: Christel Haeck
Clerk: Donna Pajeska

Présidente : Christel Haeck
Greffière : Donna Pajeska



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Table des matières

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STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 28 April 1993

The committee met at 1006 in committee room 1.

ELECTION OF CHAIR

Clerk of the Committee (Ms Donna Pajeska):

Honourable members, it is my duty to call upon you to elect a Chair. Are there any nominations?

Mr Ron Hansen (Lincoln): I nominate Christel Haeck, the MPP for St Catharines-Brock, as Chair of this committee.

Clerk of the Committee: Thank you. Any further nominations? Okay, I now declare the nominations closed and Ms Haeck be elected Chair.

The Chair (Ms Christel Haeck): Thank you.

Mr Hansen: Congratulations.

The Chair: Thank you to my nominators and all the hard work of campaigning.

Mr Hansen: Do you stand or decline?

The Chair: I do stand and I will accept and I thank my nominator.

Interjection.

The Chair: Oh, right. No great promises made and get on with it. Yes, I know. It's probably the best way of approaching it.

ELECTION OF VICE-CHAIR

The Chair: We have as our next order of business the election of Vice-Chair. So the formal response to this is: Honourable members, it is my duty to call upon you to elect a Vice-Chair. Are there any nominations?

Mr Hansen: I nominate Ellen MacKinnon for Vice-Chair of this committee.

The Chair: Are there any other nominations? Seeing none, I declare the nominations closed and that Mrs Ellen MacKinnon be elected Vice-Chair.

APPOINTMENT OF SUBCOMMITTEE

The Chair: We will need a motion to appoint a subcommittee. Is there a mover?

Mr Derek Fletcher (Guelph): I move that a subcommittee on regulations and private bills standing committee business be appointed to meet from time to time at the call of the Chair or at the request of any member thereof to consider and report to the committee on the business of the committee; that substitution be permitted on the subcommittee; that the presence of all members of the subcommittee is necessary to constitute a quorum; and that the subcommittee be composed of the following members: Ms Haeck as Chair, Mrs MacKinnon, Mr Eddy and Mr Jordan.

The Chair: Very good. We do have a duly formulated motion. All those in favour?

Mr Hansen: John, you in favour of this?

The Chair: Any further discussion? Sorry—any discussion? It's a standard motion, but is there any discussion about the motion? Thank you. All those in favour? You've done that, but—thank you. There is no opposition to this, so let us say that it is carried.

The next item of business would be adjournment, but before we move to that, I do want to ask the clerk: Do we have some bills that are to come before us?

Clerk of the Committee: Yes, we do have six bills right now which stand referred to the committee. Within the next week I'll be scheduling them, so we may have a meeting next Wednesday, if that's the wish of the committee.

The Chair: Okay. So I would ask the individuals from each caucus to arrange a subcommittee meeting, if that's in order, to deal with what schedules are coming up. Okay? So at our next meeting, we will consider those bills that have been referred to this committee.

This committee now stands adjourned.

The committee adjourned at 1010.

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*In attendance / présents

Substitutions present / Membres remplaçants présents:

Harrington, Margaret H. (Niagara Falls ND) for Mr Mills

Clerk /Greffière: Pajeska, Donna



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STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 5 May 1993

The committee met at 1001 in committee room 1.

The Vice-Chair (Mrs Ellen MacKinnon): I would like to call this meeting to order of the standing committee on regulations and private bills.

MARANATHA CHRISTIAN REFORMED CHURCH
OF WOODBRIDGE ACT, 1993

Consideration of Bill Pr84, An Act to revive Maranatha Christian Reformed Church of Woodbridge.

The Vice-Chair: The first bill we're going to call is Bill Pr84, An Act to revive Maranatha Christian Reformed Church of Woodbridge. Mr Sorbara is here. You're the sponsor. Mr Sorbara, would you please introduce your applicants.

Mr Gregory S. Sorbara (York Centre): Thank you, Madam Chair. I'm pleased to introduce Albert Hartholt, who is the treasurer of the applicant church, and Jan Poot, who is not only a friend, he belongs to the right political party, at least he used to in the good old days—

Mr Rosario Marchese (Fort York): It sounds like conflict to me.

Mr Sorbara: No conflict whatever—and a solicitor in the community of Woodbridge in the city of Vaughan.

I think the matter is entirely straightforward, Madam Chair. The bill simply has the effect of reviving the Maranatha Christian Reformed Church in the community of Woodbridge. If you have any questions of either the counsel, Mr Poot, or Albert Hartholt, I'm sure they would be delighted to answer those questions.

The Vice-Chair: Do the applicants have any comments they wish to make?

Mr Jan Poot: No, Madam Chair. We wish to respond to questions if you have any.

The Vice-Chair: Would you like to tell us why you want this company to be revived?

Mr Poot: Madam Chair, this corporation, the Maranatha Christian Reformed Church of Woodbridge, a member church of the Christian Reformed Church of Canada, was incorporated in 1970. As such, it became the owner of substantial properties on which its parsonage and main church building are in Woodbridge.

By reason of the fact that up to about 1976 the Ministry of Consumer and Commercial Relations at that—

The Vice-Chair: Excuse me. Could you take your conversations back away from the mikes, please. Thanks. That means you too. I'm sorry for the interruption.

Mr Sorbara: That's the way to handle them, Madam Chair.

The Vice-Chair: Well, it's difficult to pick up three conversations on these microphones.

Mr Poot: As I said, Madam Chair, until about 1976 it was the practice of the Ministry of Consumer and Commercial Relations to require that corporations file their annual returns. That was a practice that was discontinued at or about that time, and I must confess personally that I think that is not a good practice. I believe that reporting requirements should be reinstated. They adopted the then voluntary system whereby you had to notify the ministry of changes.

What happened, unfortunately, was that no notice of change was given of the change from a postal box address to the physical address of the property, so that when in 1987 the ministry decided to purge dormant or extinct corporations, when a notice of intent to dissolve was sent to the corporation at its post office address, it was never received. Consequently, on January 27 the five-year period of grace for the corporation expired.

As it so happens, at or about that date, my file indicates that on January 30, three days later, I did a corporation search and found out that its articles had been dissolved and I was beyond the five-year period of grace, and the reason for all of that was because this corporation, that is to say the church, has obtained approval from the municipality to rezone part of its property for purposes of a non-profit housing corporation for senior citizens, which is now well in the way of final stages towards obtaining a building permit. That is, in short, the situation we find ourselves in, Madam Chair.

Of course, with an organization such as a church or a charitable organization, there's a great deal of coming and going of personnel and, as a result, you don't have the continuity that you might have in a private corporation where you generally have one or two individuals who are president or secretary and directly responsible. In this organization over the past 20 years, it being a democratically organized church, essentially the office bearers would change every year so you won't find that continuity. I think that was responsible for the failure to inform the minister of the change of address. And I suspect—I'm not certain of that—that they probably weren't even aware they had to.

The Vice-Chair: Thank you very much. Are there any objectors to this particular bill?

Mr Ron Hansen (Lincoln): I have a question.

The Vice-Chair: Just a minute. I think we start over

here with questions, don't we? Questions from the committee. Do you have any questions?

Mr Ron Eddy (Brant-Haldimand): No, Chair, I have no questions. I'm prepared to move approval.

Mr Dave Johnson (Don Mills): That's fine by me.

Mr Gordon Mills (Durham East): There are no objections from the ministry, Madam Chair. In the absence of the parliamentary assistant, I bring that to your attention.

The Vice-Chair: Thank you very much, Mr Mills.

Mr Hansen: I've brought it to the attention of the committee before that many groups and charitable organizations are appearing before this committee because of a change of address and I think the ministry could do a better job by checking up by telephone to find out whether they're still in existence and possibly checking to see if they have a new address. This is wasting their time and the committee's time to wind up coming before the committee to renew their application which should have been done in that period of time when it was time for renewal. I think we should be taking a look at saving a lot of time and expense.

I mean, the church just didn't move out of the community. There must have been some way of contacting the minister or something like that, because as you relate the information that your executive changes on a yearly basis—and it's happened in small companies where accountants have changed also, where the companies have had to come forward. So this is an ongoing—I would say we have at least two or three bills every sitting of this committee and I think it should be addressed by the ministry.

The Vice-Chair: I appreciate your point, Mr Hansen. I do recall your bringing it up before and perhaps it's something we as a committee should be drawing to the attention of the ministry.

Mr Hansen: Maybe the subcommittee can bring this up and have a meeting on it.

The Vice-Chair: Okay, we'll do that. Anybody else with any questions from the committee? Are the members ready to vote?

Mr Mills: Go ahead.

The Vice-Chair: Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Agreed.

Shall the bill carry? Agreed.

Shall I report the bill to the House? Agreed.

And you have the motion? Yes, Mr—I know you better by your first names.

Mr Mike Cooper (Kitchener-Wilmot): I'd like to move that the committee recommend that the fees and the actual cost of printing at all stages in the annual

statutes be remitted on Bill Pr84, An Act to revive Maranatha Christian Reformed Church of Woodbridge.

The Vice-Chair: Is there any discussion? Shall the motion carry? Carried. Thank you very much.

Mr Poot: Thank you very much, Madam Chair. Thank you, members of the committee.

506548 ONTARIO LIMITED ACT, 1993

Consideration of Bill Pr1, An Act to revive 506548 Ontario Limited.

The Vice-Chair: Are the people for An Act to revive 506548 Ontario Limited present? Mr Jordan, you are the sponsor?

Mr Leo Jordan (Lanark-Renfrew): Yes, Madam Chair, I'm substituting for my colleague Charles Harnick.

The Vice-Chair: That's fine, thank you. Would you like to introduce your applicant, please?

Mr Jordan: Yes. Chak-Nag Ng has applied for special legislation to revive 506548 Ontario Limited. The applicant represents that he is the president, secretary and sole director of the ongoing organization carried on in the name of the corporation.

The Minister of Consumer and Commercial Relations dissolved the corporation on the 25th day of May, 1987, for default in complying with the Corporations Tax Act. The applicant represents that he did not receive the notice of default that was mailed to the corporation, that he was not aware of the dissolution until more than five years after it had occurred and that activities have been carried on in the name of the corporation despite the dissolution.

The Vice-Chair: Does the applicant have any comments, please?

Mr Jordan: I have the applicant's solicitor here, Alan Sugarman.

Mr Alan Sugarman: The submissions that Mr Jordan has made are substantially correct. My client didn't become aware of the dissolution until the fall of 1992. The notices had been sent out to the corporation's previous accountant. The accountant never passed them on to my client. My client was at that point in time a recent immigrant to Canada. He didn't understand English too well. He never had notice of it. He will, in the future, make sure that all these things are complied with.

The Vice-Chair: Are there any interested parties who wish to speak to this bill?

Mr Hansen: I'd like to know about this insert that was put in with this bill for the committee members, pages 56, 57, 58.

The Vice-Chair: Disregard that.

Mr Hansen: That's a mistake? You asked me and I thought it was a mistake, and then when I opened mine, I had it also. Okay, fine.

The Vice-Chair: I think we have some gremlins in our photocopiers.

Mr Mills: In the absence of the parliamentary assistant, I'd like to advise the committee members that the Ministry of Revenue has no objections to this revival.

The Vice-Chair: Thank you very much. Questions from over here? Mr Johnson?

Mr Dave Johnson: I have no questions.

The Vice-Chair: Are the members ready for the vote? Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I present the bill to the House? Agreed.

Thank you very much for coming.

WOMEN'S COUNSELLING
REFERRAL CENTRE ACT, 1993

Consideration of Bill Pr2, An Act to revive the Women's Counselling Referral Centre.

The Vice-Chair: Our next order of business is Bill Pr2. I understand Mr Perruzza is here as the sponsor. The Women's Counselling Referral Centre, welcome to our committee. I forgot to do that with the others; I'm sorry. Go ahead.

Mr Perruzza, do you wish to do some introducing?

Mr Anthony Perruzza (Downsview): Yes, Madam Chairman. In Ms Zanana Akande's absence, I am pleased to sponsor this private member's bill, An Act to revive the Women's Counselling Referral Centre.

The Vice-Chair: Would the applicant like to make some comments?

Ms Marcie Weinman: Yes, Madam Chairman. The Women's Counselling Referral Centre was dissolved under the Corporations Information Act in 1979. The notice of the dissolution was sent to student legal aid, which had done some legal work for the centre previous to that time.

The notice never did come to any of the present members of the centre. The clerical and administrative staff and the directors have changed over many times since 1979. It did come to their attention around 1987 that the corporation was dissolved, and at that time they retained a solicitor who proceeded to try to reincorporate them under a new corporation.

That procedure went on for quite some time before they found out that was not the way to do this. That was allowed to ride by the other solicitor, I believe, for quite some time, until I was retained in 1992. We're now bringing this application for a bill to revive the corporation.

The Vice-Chair: Thank you very much. Do you

have a question, Mr Mills?

Mr Mills: No, I have a comment, Madam Chair, to advise the committee members, on behalf of the parliamentary assistant, that the Ministry of Revenue has no objections to this revival.

The Vice-Chair: Thank you very much. Are there any questions by any of the members?

Mr Eddy: I note that it's a solicitor, in this case, who abandoned the work. I don't know whether there's any penalty for that or not, but of course it's not you; it's a former solicitor.

Mr Hansen: Madam Chair, I think this is another straightforward renewal, so I think we can dispense with any more questions.

The Vice-Chair: Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I present the bill to the House? Agreed.

Mr Cooper: I move that the committee recommend that the fees, and the actual cost of printing at all stages and in the annual statutes, be remitted on Bill Pr2, An Act to revive the Women's Counselling Referral Centre.

The Vice-Chair: Is there any discussion? Shall the motion carry? Carried. Thank you all very much.

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ONTARIO ASSOCIATION OF VETERINARY
TECHNICIANS ACT, 1993

Consideration of Bill Pr3, An Act respecting the Ontario Association of Veterinary Technicians.

The Vice-Chair: Next is Bill Pr3, sponsored by Mr Wayne Lessard.

Mr Wayne Lessard (Windsor-Walkerville): Good morning, Madam Chair, members of the committee. I'm the sponsor of this bill, An Act respecting the Ontario Association of Veterinary Technicians. I have with me, on my right, the president of the association, Ms Monica Tighe. Also with me, on my far left, is Steve Hood. Next to Steve is Marg Brown. On my immediate left is Melanie Lisle. They are members of the executive and members of the association.

The lead spokesperson is Ms Tighe. She is going to give you some history of the association, what it is that veterinary technicians and registered veterinary technologists do and what some of the educational requirements are that they have to meet, and also the reasons for requesting this legislation.

The Vice-Chair: Thank you very much, Mr Lessard. Ms Tighe, have you some comments?

Ms Monica Tighe: Yes, I do. Good morning. I just wanted to explain to the committee exactly what a veterinary technician does and is. These are people

across the province of Ontario who, the majority of them, work in small animal practices, although they do work in large animal practices, pharmaceutical sales, humane societies, pounds.

What we basically are trained to do is work in a practice and do procedures on animals, including inducing anaesthesia, maintaining anaesthesia, exposing radiographs, taking laboratory samples, performing analyses on the samples, minor surgery, many prophylactic measures for clients, as well as dentistry, and the list goes on and on.

We are educated in four programs across Ontario. Three of them are two-year programs. One of them is a three-year program, and hence the terminology "technologists": If you graduate from a three-year program, you're a technologist. If you are a graduate from a two-year program, you're a technician. We also, though, include in this initiative self-trained individuals: on-the-job trained individuals.

This association, the Ontario Association of Veterinary Technicians, has been around for 23 years, and since that conception time in 1970, we have included all people who work in practices. In 1988, we discovered that technicians were only staying on the job for a minimum of two years. We found that we had no recognition with the public, and that was probably one of the deterrents, why people were leaving this field. By the way, this field is very expertise and very technical. This is something you have to be trained to do.

So in 1988 we discovered we were losing a lot of our members, and the membership decided to start a voluntary registration process. So in 1990 we started a voluntary registration process in June and, as of Saturday, which is our seventh examination period, we now have 710 RVTs in practice in Ontario.

The registration process is very simple for graduates of a college. They have to write an examination, which is well known across North America and is used across North America, including Canada and the US. Also, though, the on-the-job trained technicians have to go through an examination period, as well as an oral practical exam. We initiated that so that everyone is the same across the province, and we include everyone in this initiative.

So since 1990, we did have a membership of 250. We are now approximating, as of this week, 900 members; 710 of those are RVTs. So the population of our membership has increased dramatically because of this initiative.

Why we want the special legislation: There are many reasons, but the four main reasons are to promote humane medical care of all animals, which we have done since our conception, and that is our prime objective and mandate. Number two is to regulate our professional standard and maintain a high competency

level. Number three is to continue to further the education of our veterinary technicians; along with the registration, there is also a mandatory CE component, which we include in our registration. The fourth one is to gain some autonomy or self-government for ourselves and our profession. That's all I have to say.

The Vice-Chair: Are there any objecting or interested parties?

Mr Mills: I'd just like to advise members of the committee that the Minister of Agriculture and Food supports this bill.

The Vice-Chair: Thank you. Mr Hansen, you had a question or comment?

Mr Hansen: If you become an RVT in your association, if there's a complaint from the public and you are dismissed from the association, can you still practice as a vet or is your name handed on farther? Would you make a recommendation that their licence to practice be taken away, or is it just out of the association?

Ms Tighe: Actually, we're not licensed; we're registered. We take that as a difference in our profession. We are always supervised by a veterinarian, so if there was a complaint from the public, it would be going to the veterinarian. We are always working under their supervision, so it would be up to them to do something about that. We also, though, have in this special legislation the ability to discipline our members. We hope we never have to do that, but there is that possibility.

Mr Hansen: I think it's most likely thoroughly researched with Mr Lessard as your legal adviser. No? Not legal adviser? Just presented it.

Mr Lessard: Just for the record, I wasn't the legal adviser on this bill.

Mr Pat Hayes (Essex-Kent): He's doing it for free.

Mr Mills: You're trying to get him into trouble.

The Vice-Chair: Are there any comments the parliamentary assistant may have from government?

Mr Hayes: We have no objections to this particular bill, and as Mr Mills has mentioned, the Minister of Agriculture and Food does not have any objections, so we would be in favour of the bill.

The Vice-Chair: Are there any questions on this side?

Mr Dave Johnson: I'm just curious. In terms of the discipline, you mentioned that there are some procedures for discipline. Could you be more specific?

Ms Tighe: Well, we haven't had to do any discipline up to this date, and we hope we never do, but in the bill it does state—I can't remember the section.

Mr Hansen: I think it's section 10.

Ms Tighe: We do have a provision in section 10 to go to Divisional Court if it comes to that point. We also have bylaws that would of course begin the process.

Mr Dave Johnson: I must admit I haven't had a chance to get through this; I only got it yesterday afternoon. When you speak of going to court, then you would be called an association? The association would take a member to court under certain conditions? Is that what you're suggesting?

Ms Tighe: Well, probably in drastic conditions, yes.

Mr Dave Johnson: Are there any other steps of discipline in between? That sounds fairly drastic.

Ms Tighe: Yes, it does. Yes, we do have bylaws that stipulate when a member may be taken off our register and may be disciplined in some way. Taking them away from the register, though, would probably be the deterrent for anyone to do anything that would cause us to discipline.

Mr Dave Johnson: What sort of cases would discipline be involved in? Would it be inadequate care for an animal?

Ms Tighe: Yes, it may be that they are performing duties that are licensed by a veterinarian. We cannot diagnose, make a prognosis or make a therapy decision. We are basically the technical assistance to a veterinarian. So yes, the drastic step would be if they are practising veterinary medicine. Our association probably wouldn't be taking them to court; it would probably be the veterinarians' association, the College of Veterinarians of Ontario.

The Vice-Chair: Susan Klein will offer some comments in regard to the discipline.

Ms Susan Klein: In response to your questions about the discipline powers, in clause 6(2)(c) the association has the power to pass bylaws setting out "a code of ethics, rules of professional conduct and standards of practice and by providing for the suspension, expulsion or other penalty for contravention."

So the first step of discipline is that the board sets up its bylaws and then the board will have probably a discipline committee, something like that, set up to deal with complaints. The court process is a right of appeal for someone who has been disciplined to go to Divisional Court and ask a court to reassess that discipline.

Mr Dave Johnson: If somebody was expelled, what does that mean exactly? Does that mean they could no longer act in that capacity?

Ms Klein: I don't think so. It means that they're not a member of the association, but you can still practise. The right to practise is not affected; they just can't call themselves an RVT.

Ms Tighe: That's correct, exactly.

The Vice-Chair: Any other questions or comments? I've got a question for Mr Lessard. Is this a source of revenue for Mr Laughren?

Mr Lessard: I don't believe it is. It's my impression from reading the bill that this would be a self-regulating

profession. Any fees they impose would go to the organization, not to the government.

The Vice-Chair: Maybe we can change that.

Mr Hansen: That's a legal opinion there.

The Vice-Chair: Shall section 1 carry? Carried. Section 2? Carried. Section 3? Carried. Section 4? Carried. Section 5? Carried. Section 6? Carried. Section 7? Carried. Section 8? Carried. Section 9? Carried. Section 10? Carried. Section 11? Carried. Section 12? Carried. Section 13? Carried. Section 14? Carried. Section 15? Carried. Section 16? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

I'd like to thank you all very much. As usual, Mr Lessard always does a good job. He sits beside me; that's why. It sort of rubs off. Thank you very much. Have a good day.

1030

JOHN G. TODD AGENCIES LIMITED ACT, 1993

Consideration of Bill Pr21, An Act to revive John G. Todd Agencies Limited.

The Vice-Chair: Mr Cooper, you are the sponsor for Bill Pr21, An Act to revive John G. Todd Agencies Limited. Are you doing this solo? Mr Cooper, would you like to introduce your bill, please.

Mr Cooper: Yes. I'm here to sponsor An Act to revive John G. Todd Agencies Limited. I've been in phone conversation with their solicitor out in Alberta, and being there were no problems with the ministry or with the government on this bill, they thought it would be convenient for me just to present the thing by myself, being as it would be uneconomical for them to come down from Alberta for something that was non-controversial.

Basically what happened was that the company was dissolved as a result of an inadvertence on the part of the applicants. The applicants have, since the dissolution of the corporation, continued to carry on business in the name of the corporation and they wish to properly legitimize their actions as that of the corporation, as this truly reflects their intentions. The revival of the corporation is the only means available to provide such legitimacy to the actions of the applicants.

The Vice-Chair: Thank you, Mr Cooper. Are there any objectors to this particular bill, or interested parties? Does the parliamentary assistant have some comments?

Mr Hayes: The Ministry of Municipal Affairs has no objections to this bill, and as I see in the notes here, the Ministry of Revenue has no objections to the bill also. We're certainly supporting the bill.

The Vice-Chair: Are you ready for the vote? Shall section 1 carry? Carried. Section 2? Carried. Section 3? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I present the bill to the House? Agreed.

Thank you very much. Thank you, Mr Cooper.

Mr Cooper: On behalf of the applicants, I'd like to thank you for your time and attention.

CANINDO DEVELOPMENT LIMITED ACT, 1993

Consideration of Bill Pr36, An Act to revive Canindo Development Limited.

The Vice-Chair: We now have Bill Pr36, An Act to revive Canindo Development Limited. Mr Marchese.

Mr Marchese: I'd like to introduce the applicant, Mr Moshe Nahum, and the solicitor, Mr Jack Copelovici. It's my pleasure to introduce Bill Pr36, An Act to revive Canindo Development Limited, and given that counsel is here, I would ask him to give some explanatory remarks.

The Vice-Chair: Would you go ahead, please.

Mr Jack Copelovici: Canindo Development was incorporated in 1976. In 1982, it was dissolved for failure of remitting corporate taxes. During the time that it was to remit corporate taxes, the person who would have known to do that was its accountant, Mr Werger. Mr Werger stole, we estimate, about \$400,000 from the corporation, and Mr Nahum, who was trusting Mr Werger, did not know that corporate taxes had not been remitted.

An action was commenced against Mr Werger and also against the Toronto-Dominion Bank, which we are alleging should have known that the money was being taken improperly. The action continued by previous counsel. When I took over the file in 1991, I wanted to speed the process up, the action up. In early 1992, when I brought a motion to speed the process up, counsel for the TD Bank advised me that he had done a corporate search on Canindo and found that it had been dissolved. We did not know that Canindo had been dissolved. The person who would have known was Mr Werger, and for reasons which I am sure the committee can understand, he doesn't want to talk to us.

As a result, when we ascertained that Canindo had in fact been dissolved, we had to do investigations with corp tax, and we have remitted our corp tax.

The purpose of reviving the corporation is twofold. The first is to continue the lawsuit because we can't, in view of the fact that one of the plaintiffs, other than Mr Nahum, is dissolved. The other is that Mr Nahum wants to use Canindo as a vehicle for various business enterprises.

The major purpose, though, is to continue the litigation as against the TD Bank. I note that the TD Bank is an objector. I understand the TD Bank has filed a letter with the committee asking for an adjournment. I would have some sympathy with the adjournment, although

I'm not sure, in the absence of the TD Bank, how it could object, and also if it would have told us about six years ago that Canindo was in fact dissolved, because there's no reason to check your own company to see if it's dissolved if you think you're okay.

Actually, the TD Bank has had the ability to check this out for about six years, and I'm not sure that the committee should look with favour upon a request for an adjournment for this objection so that this objection may be brought. I hesitate to speak in favour of the TD Bank, but it is my intention to proceed with this litigation as against the TD Bank as quickly as possible.

As soon as we found out that Canindo was in fact dissolved, we moved very quickly to deal with corp tax, to pay the corp tax and to get the company before this committee to be revived.

Those are the comments I have to make.

The Vice-Chair: Thank you very much. I wish to advise you that we do have a letter here from the Toronto-Dominion Bank. I believe everybody has copies of it. Are there any questions?

Mr Marchese: Madam Chair, can I just make some remarks before you go to the other members?

The Vice-Chair: Go ahead.

Mr Marchese: I don't know why the bank is not here to object, given that it would seem to me that it has many resources to do so and to be here to present objections. My suggestion would be that we proceed with this act in their absence and that they pursue their own course of action through other legal means, but before I do so I would like to ask our own counsel here to give an opinion in terms of precedence as to what we might have done in the past.

1040

Ms Klein: I'm not sure about precedents about proceeding in the absence of an objector. The objector hasn't put his case forward to the committee. In terms of proceeding to revive a corporation in spite of the fact that an objector objects because a lawsuit will be brought, traditionally the committee, in the interests of fairness and with the concern that it wants to avoid undue hardship to either party, has in that situation said that it cannot assess the merits of the dispute in the forum of the committee.

This committee isn't structured the way a court is to assess evidence, credibility, any of the legal matters that might be between two disputing parties. The committee has certainly relied on the court's expertise and the court's ability to award costs against a plaintiff. If the lawsuit is determined by the court to be without merit or frivolous, the court can award costs against the suing party.

Usually, in weighing the fairness in terms of whether to revive or not, this committee has said: "If we don't revive the corporation because they may be suing, the

result is that we've determined the lawsuit in favour of the defendant. If we do revive the corporation and allow it to proceed with its litigation, then let the legal issues be resolved in court, let the court be concerned about whether it was without merit and award costs to remedy that."

The committee also has not, I don't think, distinguished in the past between the reasons a corporation asks for revival. The committee doesn't usually look behind it with any great care: whether an applicant wants to sue or allow itself to defend itself in an action; whether the two parties are agreeable to have a lawsuit, to proceed with the lawsuit and whether they're not agreeable to proceed with the lawsuit; whether the corporation just wants to carry on business. The committee has not been assessing that kind of thing, and this could be a precedent of making a decision on the basis of disallowing somebody to pursue a lawsuit. It would be, I think, a precedent in the committee.

The Vice-Chair: Thank you for your answer. A question? We'll start here, please.

Mr Eddy: Noting that the letter from a representative of the legal department of the Toronto-Dominion Bank is dated May 28, 1992, and requesting when representations will be made to the committee regarding this application to revive, my question is: Was there a reply sent to the writer of this particular letter? Was due notice given of this hearing today, due notice being at least seven days or whatever the legal requirement is? I'd like to know that, and if letters of response did go, was there a response then from the bank stating that it couldn't be here and giving valid reasons for not being here?

Clerk of the Committee (Ms Donna Pajeska): Yes. I've been in touch with Colin Taylor and we did call him at least a week ago to give him notice. We explained that because of the many parties involved in scheduling, a week is the norm. About a year ago when we received that letter, we invited written submissions, and at that time we did not receive any.

The Vice-Chair: Thank you. Go ahead.

Mr Dave Johnson: I don't know how this works exactly, but does it violate any legal or clerical procedures to have this come up at the next meeting of the committee and allow the bank a second opportunity to come?

Clerk of the Committee: It's the wish of the committee. If the majority of the committee wishes to adjourn this or deal with it today, that is their decision to make.

Mr Dave Johnson: No precedent, looking at the legal counsellors? Any problem with that?

Ms Klein: I'm not aware. I don't know.

Mr Dave Johnson: I understand your reasoning and that would seem to make good sense, but at the same

time, I'm sure we want to hear all parties just in case.

Ms Klein: I don't know if it's a legal issue. It's a political committee. If you want to make the decision to proceed in the absence of hearing the other side, you can. On the other hand, if you want to hear the other side, you can adjourn.

Mr Dave Johnson: And the history of this committee is such that it would listen in situations like this. If somebody asked for an adjournment, would they put it off for one meeting type of thing to listen or to give the opportunity to come?

Clerk of the Committee: Certainly, once again, that's the decision of the committee. Now, there have been applications in the past where decisions have been made without objectors present, so this certainly wouldn't be a precedent if they decided to deal with it today.

Mr Dave Johnson: Then I gather that for the lawsuit to proceed by the applicant, this must be revived. I'm sort of taking that for granted, I guess.

Ms Klein: That's my understanding. Maybe counsel for the applicant can answer that as well.

Mr Copelovici: I think I should point out two things. The first is that in the original application in court to strike out our action because Canindo did not exist, there is a clause in the court order which does not take away any of the Toronto-Dominion Bank's rights to plead that it has been prejudiced by virtue of the fact that Canindo was dissolved and then again revived. As a result, they have that guarantee.

Secondly, the legislation which allows corporations to be revived does not take away any of the rights which parties may have obtained by virtue of the fact that a corporation was dissolved and then revived. So, in other words, the TD Bank, in my reading of the legislation as well as the court order, does not lose any of the rights that it had by virtue of the fact that there was a dissolution of Canindo and a revival of Canindo.

Mr Dave Johnson: I guess my question, though, was, how does this detract from your lawsuit if you're not revived?

Mr Copelovici: The major plaintiff—the party that owed the money, the party that had the money, was the owner of the money—will not have its right to continue with the action. This money was in a Canindo bank account in the TD Bank and it is our allegation that the TD Bank was negligent in allowing the money to go out.

I could go through quite a bit of evidence with you but I don't think we have to do that today.

Mr Dave Johnson: No.

Mr Copelovici: But if we don't have this company revived, we're out somewhere between \$400,000 and \$600,000.

Mr Dave Johnson: How active is this lawsuit at this point in time—if this was delayed till the next meeting of this committee, which I don't know when that will be.

Mr Copelovici: If we are successful in obtaining a revival, within a week Mr Taylor will have a motion on his desk for an early pre-trial of this action and the trial should take place by November of this year. Within one week he will have it.

Mr Dave Johnson: Right, and if this was held over until the next committee, I presume he would have it a week after that, again if it was revived at that point.

Mr Copelovici: I expect he could, but he's protected. He argued this matter with respect to his prejudice in court, and an agreement was reached between Mr Taylor and myself as to the wording of the order so the TD Bank can bring its arguments in court. What it would argue is that somehow the cause of action was extinguished by virtue of the Limitations Act. He will bring that argument up in court. I feel fairly confident we will be able to take care of that argument in court, and it is the judge, in my submission, who should make that determination.

Other than that, the question of whether Canindo should be revived, in my submission, is a political question in front of this committee and not something that an objector who is looking at a lawsuit should really be able to impede.

The Vice-Chair: Do you have any more questions? Okay. Thank you.

Interjection.

The Vice-Chair: Mr Hansen.

Mr Hansen: I had my hand up first there and I wondered why I was last there.

The Vice-Chair: I know you did.

Mr Hansen: Okay. The one thing, and I haven't really seen it here, is that there are no moneys owed by this corporation to the province of Ontario. They paid all their taxes. I think that's one thing that we have to take a look at here.

It is not our concern, as a committee, of the outside events on that particular objector. Mr Johnson, through the Chair, this objector, if we put it off until we meet again, possibly the Toronto-Dominion will not be here. What decision does the committee make at that time? Because I can see that they've sent the letter in as an objection but I don't think it's an objection that this committee should be taking a look at. This is a legal objection. But in the province of Ontario, which we represent, I don't see, by listening to legal counsel, that we should be involved with the litigation of this particular bill.

The Vice-Chair: Thank you, Mr Hansen. Mr Perruzza.

Mr Perruzza: In just speaking to this very quickly, I understand this letter of objection here, and the TD Bank doesn't have anybody here today. But I don't understand how it would change the dynamic, there being somebody here from the TD Bank in terms of our allowing this to proceed.

I guess my other query is that this meeting is scheduled for 10 o'clock and we don't provide specific times when specific issues are going to be raised and dealt with here at the committee. Now I can understand if the TD Bank, having been given sufficient notice and if its principals and the people who are essentially dealing with this action couldn't be here today, it could send representatives on its behalf to just simply appear before the committee and ask that an adjournment be, you know—and raise the issues with the committee.

Seeing nobody here in the audience who has come forward and suggested that they're here on behalf of the TD Bank and seeing that we're—if somebody were on their way and they're late and they're scrambling through downtown traffic to get here—seeing as how we advertise the committee meeting to begin at 10 o'clock and not notifying anybody that we would actually be dealing with this item one hour later, and an hour having passed and nobody having walked through the door and stated that they're here representing the TD Bank, I think what we should simply do, given that we have a lot on our plate in the upcoming meetings in terms of bills to deal with, is simply proceed and allow the door open for the TD Bank. If they would like to forward written comments at a later date, they're welcome to do so, because obviously this bill isn't going to be reported in the House and be given royal assent for quite some time to come, so they'll still have an opportunity to be able to do that.

Interjection: This afternoon.

Mr Perruzza: Oh, this afternoon. Oh, that's even quicker.

The Vice-Chair: May I remind you, if it goes through today it'll be reported this afternoon.

Mr Perruzza: Oh, that's very good. In fact that would be an ideal thing.

Mr Hansen: Well, they still have time.

Mr Perruzza: Yes, absolutely. I guess I'm not going to move a formal motion, but I'm going to be supporting that we proceed with it today.

The Vice-Chair: Thank you, Mr Perruzza. Do you have anything to report, Mr Hayes?

Mr Hayes: I guess there was one concern and that was with the Ministry of Consumer and Commercial Relations and the corporations tax branch of the Ministry of Revenue. But I understand from a letter here that they have no objections to this, and I'd have to kind of go along with Mr Perruzza that the Toronto-Dominion Bank could have had someone here today if they chose

to. We have no objections.

The Vice-Chair: Thank you. Mr Marchese, you wish to make some remarks?

Mr Marchese: Just quickly. The bank, it seemed to me from the comments that the clerk had made, had plenty of opportunities to make a submission or to come and clearly refused to do that. In light of that we should just proceed.

The Vice-Chair: Thank you. Are there any more questions or comments? Shall we vote on this bill?

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I present the bill to the House? Agreed.

Thank you all very much. This now completes our business for today. The meeting shall be adjourned. You'll be notified for the next meeting.

The committee adjourned at 1053.

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STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

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*In attendance / présents

Substitutions present / Membres remplaçants présents:

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Cooper, Mike (Kitchener-Wilmot ND) for Ms Haeck

Clerk /Greffière: Pajeska, Donna

Staff / Personnel: Klein, Susan A., legislative counsel

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Standing committee on
regulations and private bills

Comité permanent des
règlements et des projets
de loi privés



Chair: Christel Haeck
Clerk: Donna Pajeska

Présidente : Christel Haeck
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A new coat of arms appears on the cover of Hansard. Presented to the Legislative Assembly of Ontario by the Governor General on 26 April 1993, it emphasizes the distinctive character of the Assembly and distinguishes the Assembly's identity from that of the government. It was created at this time to mark the bicentennial of the First Parliament of Upper Canada and the centennial of the present Legislative Building. Further information may be obtained by calling 416-325-7500.

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La table des matières des séances rapportées dans ce numéro se trouve sur la couverture à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et d'autres personnes ayant participé.

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STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 2 June 1993

The committee met at 1006 in committee room 1.

The Chair (Ms Christel Haeck): Ladies and gentlemen, I'd like to call the meeting to order.

Interjection: The committee.

The Chair: The committee, yes. I'm used to meetings, not committees.

CITY OF LONDON ACT (VITAL SERVICES), 1993

Consideration of Bill Pr13, An Act respecting the City of London.

The Chair: I would like to advise you all that Bill Pr88 has been deferred till another meeting, so we will move directly into Bill Pr13, An Act respecting the City of London. I'd like to introduce the sponsor, Irene Mathysen, and the applicant is Mr Robert A. Blackwell, the city solicitor for the city of London. Perhaps the applicants would like to introduce themselves and then make any comments.

Mrs Irene Mathysen (Middlesex): I'm Irene Mathysen, MPP for Middlesex, and this is Mr Bob Blackwell, and he is the solicitor for the city of London. I would like to thank Mr Blackwell and the city of London for Bill Pr13, An Act respecting the City of London.

Briefly, this bill is in response to a problem regarding some London tenants that has gone on for far too long and has negatively impacted upon the quality of life for those same tenants. Briefly, Madam Chair and members of the committee, the tenants of Cheyenne have lived in unacceptable conditions for a number of years. In addition to little or no building maintenance, infestations of cockroaches and harassment, the tenants have been forced to face shutoffs of vital services—hydro and natural gas—because of the landlord's failure to pay the utility bills.

In an effort to address this failure on the part of the landlord, the community worker for that area, the Rev Susan Eagle, and the tenants set up a trust fund, paid rents directly to the trust fund and were able to pay the hydro bill, a matter of about \$6,000. Rev Eagle is here today with Navy Chann, a tenant at Cheyenne, and I believe they're going to address the committee and give you a sense of what the conditions are like there.

Unfortunately, despite the efforts of Rev Eagle and the tenants, the landlord challenged these tenants for so-called non-payment of rent.

In addition to this, tenants are now facing a threatened shutoff of natural gas. The order was issued in early May.

This Bill Pr13 is in response to the very difficult situation faced by these tenants.

I believe Mr Hayes is going to address the specifics, as is Mr Blackwell. I'll certainly be pleased to answer any questions you have, but I'd like to turn it over to Mr Blackwell.

The Chair: Yes, Mr Blackwell, if you have any comments, please, on behalf of the applicant.

Mr Robert A. Blackwell: I do. Thank you, Madam Chair. First of all, I'd like to say that London is not the first municipality to seek private legislation to deal with this problem. The city of Toronto has had legislation, not exactly the same as this, for a number of years under which it deals with this type of situation. I believe Hamilton also operates under a similar set of laws, and the city of Ottawa last year obtained special legislation which we used as a basis for framing our legislation. However, we would like to think that maybe we have taken ours one step further and maybe those who come along behind us will build further out yet.

Before going into the bill itself, I'd like to make one point and stress one point, and that is that the whole object of the legislation is not to see that a provider of a vital service gets paid. The municipality does not want to be seen or be cast in the role of simply being a bill collector for a public utility or a natural gas provider or anybody else who's providing a vital service.

Essentially, we see the object of the bill as reinforcing the obligation that a landlord has to provide very basic services and amenities to people to whom that landlord rents, and really, that's the essence of it. We see it not as a private issue between the municipality and the landlord or the service provider and the landlord, but we see it as having a substantial public interest because of the number of people who are involved. I stress that because of things that may come along later on in the consideration of this bill. So I want to put that in the forefront.

For that reason, we have taken the bill much beyond the point of simply authorizing us to pay for utility services which are cut off where there are arrears. We've taken it to the point of imposing an obligation upon the landlord to provide the service, to prohibit the landlord from interrupting the service unless there is a necessity for doing so for purposes of repair. We've included in the bill an obligation on the part of a utility or a service provider to continue to provide service until it gives notice to the city that it is going to discontinue service.

We've put in the bill a provision for an official of the city, appointed by bylaw, to administer the scheme, the ability to give orders and directions about restoration of

services, and we've provided in the bill for the redirection of rents so that a landlord isn't unjustly enriched by continuing to receive rents in a situation where the utility is not paid for and the utility is cut off. So it is a very comprehensive scheme and it works together and I would encourage the committee to pass the bill as presented with all parts intact.

What I propose to do is to go section by section and simply point out the essence of it. The bill is there to be read and I take it that the committee has some understanding of the bill. Then, if there are any questions, I will certainly respond to them. I can pause at the end of each section or simply go through and then allow you to deal with the bill as a whole, as you direct.

The Chair: You're definitely fully entitled to make any comments that you require. After you, then there will be options for anyone else who is interested to make any comments and then the parliamentary assistant for Municipal Affairs will be making his. So if you can synopsise as well as you possibly can, the Chair would appreciate it.

Mr Blackwell: I think I've explained the substance or the thrust of the bill and its object.

Section 1 is simply a standard definitions section which simply amplifies certain portions of the bill.

Section 2 would authorize the city to pass bylaws which would require a landlord to provide an adequate and suitable supply of vital services to premises that are rented as residential dwellings. It would require a supplier to give notice to the city if it intends to interrupt the service because of non-payment. It would prohibit a supplier from ceasing to provide a supply of service until notice is given to the city. It would require the supplier to restore the service when it's directed to do so by an official named in the bylaw. It would prohibit anyone from interfering or attempting to interfere or obstruct, in effect, the administration of the scheme and the bylaw.

It would provide for penalties in the event that there is a contravention of any of those provisions that I have just mentioned, and because "vital service" really is essential on a day-to-day basis, we go to the extent of seeking to have an offence for each day that there is a contravention of the bylaw, because we view it as a very important mechanism. As well, we reach beyond the corporate veil to strike at any director or an officer of a corporation who participates in a contravention of the bylaw. It would also authorize the city to directly enter into agreements with suppliers to continue the supply of the service.

This scheme would only apply to landlords who take on the responsibility of paying for and supplying a vital service. Obviously, if a tenant has a direct contract with a supplier and does not pay for that, then the tenant of course has to take that responsibility and the city

doesn't intervene in this scheme.

Under subsection 2(3), we simply seek to be able to classify certain types of buildings, certain areas of the city to which the bylaw might or might not apply, to establish a standard for vital services so that it is clear what the responsibility of the landlord and the supplier of the utility is and what the expectation of the tenant can be in this scheme.

Again, it would prohibit a landlord from interrupting a vital service unless there is some necessity for doing so and it would deem the landlord to have caused the interruption of a vital service if the landlord has not paid for the utility or the services as required.

The bill then goes on simply to deal with matters of the nature of the notice that has to be given and the time limit within which it has to be given. There is a provision for inspection to ensure that in fact the service is being provided or to investigate the circumstances under which a service may have been interrupted or to ensure that a service has been restored. There is protection against intrusion into a dwelling unit that's actually being used as a habitable dwelling.

Then the bill goes on, in section 3, to provide that to the extent that the city pays for an outstanding utility, the city has a lien against the property, plus an administration fee of 10%. That amount can be put on the taxes and collected in the same way as taxes are collected. There is a provision, however, that if there's a dispute as to the amount owing, there is a mechanism for appeal there.

The money which is received by the city from rents is only to be applied towards the payment of vital services that are in arrears, and the balance, if any, would be turned over to the person entitled to that money.

Finally, there is a standard immunity section, so that while the corporation is responsible for any misadventures caused, employees of the city or agents acting in good faith have protection.

Essentially, that is it. I'm anticipating that there may be something advanced on behalf of the Ministry of the Attorney General with which I do not agree. I would like the opportunity, once that is done, to respond to that.

The Chair: That's not a problem. The parliamentary assistant will have some comments to make after Ms Eagle has had a chance to make her comment if she feels she would like to.

1020

Mrs Mathysen: I would like to say for the record that the Rev Susan Eagle has been a tireless advocate for the people of Cheyenne and her work is very important and is to be commended. Navy Chann, who sits on Rev Susan Eagle's right, is a resident of Cheyenne and she too has worked very hard in terms of

translating and explaining to the people who live in the building what is happening to them and how they can help themselves, and I think that's a very important and key part of all this.

The Chair: I appreciate your comments, Ms Mathysen. I think we all recognize that we have some very committed workers out there on behalf of vulnerable and needy people. Ms Eagle, perhaps you'd like to make your comments at this point.

Rev Susan Eagle: Thank you, first of all, for an opportunity to come and make a presentation to you today. I have worked in the Cheyenne buildings in London for nearly nine years now, but the matter that brings us to you today is something that began last December, when the tenants were informed by the public utilities commission that the electricity would be shut off in the building in about a couple of weeks, so they could look forward to spending Christmas in the dark.

At that time the community met, and we also met with some folks to give us some advice from the PUC, and we set up a trust fund. The trust fund experience, though, for us was a very anxious time, because it had to be done voluntarily by tenants, and this was done under threat by the landlord that he would first of all evict tenants, which he attempted to do, but also to suggest to the tenants that they were being very bad people and very bad tenants by supporting the trust fund.

I work with a community of folks for whom their residence in Canada has been fairly short. They're very anxious to be good citizens in Canada. They come from communities where there has been harassment, where they have even lost family members, so the threat and harassment by anyone in a position of authority is taken very, very seriously. Yet they persevered in terms of creating the trust fund and attempting to get the public utilities bill paid. By the time we closed the trust fund a month ago, they had submitted \$10,000. No, pardon me, it was more than that. It was close to \$18,000 that they had paid to the PUC. Unfortunately, the bill kept going up.

In February, we added the gas bill to that. We were unable to even manage the gas bill, and the health department stepped in and paid that.

The impact on the community, though, is something that I relate to, and children come home on a daily basis not knowing whether there will be electricity, whether there will be heat in their homes, whether or not their families will have had to evacuate because they have been unable to stay in the building. So the stress on the community since last December has been significant, as well as the stress on the families of dealing with a landlord who has on an almost daily basis threatened them with eviction.

What we're looking for is the kind of protection that tenants can have to know, first of all, that they are not vulnerable to having a notice posted on their door to suddenly find that they are going to be homeless, but also to know that there is protection for them legally, that they don't have to take the responsibility for getting those kinds of bills paid, that there's something a little bigger than them out there dealing with the landlord.

I brought some pictures with me today which I'm just going to pass around, because I think you need to see the kind of conditions that we have been working in and that gives you a little sense of the kinds of conditions.

The landlord has not been responsible or responsive to simply pressure. It has taken legal pressure. Back in 1989, the only time we got any repairs done was when the city managed to levy a \$6,000 fine against the landlord. It does take some clout by someone to get some landlords to pay attention, and I'm not saying all landlords are bad landlords, but this kind of legislation would protect tenants from the bad landlords.

I'd like to introduce Navy Chann. In fact, she is not a tenant at Cheyenne, but she spends so much time with me there that I think people think we're both tenants there. She is a translator at the Cross Cultural Learner Centre and also a settlement counsellor, so she has also dealt with tenants on a day-to-day basis who are feeling the stress of trying to cope with these conditions.

Ms Navy Chann: Thank you for giving me an opportunity to come and speak to you today. What I see is that they have a fear in terms of they are in the middle. They've got a squeeze from the landlord and also from the system, from the utility and so on.

Like Susan had mentioned before, they came from a place of authorities that they are afraid of and it's very hard. If you expect them to go after the system and go to the court and so on, it won't happen. It's very hard for them to do that, because they don't know the language, even if they read and write in their own language. A lot of them cannot read in their own language. That's why I'm involved in that, to help them and bridge them with other procedures that can help them, and I would really appreciate, on behalf of the communities, that this bill can help them in the future.

The Chair: We have at this point questions that members would like to ask, and I will call on Mr O'Neil first.

Mr Hugh O'Neil (Quinte): Madam Chairman, will the owner of the building be appearing this morning?

The Chair: I do not believe at this point he is on the list of interested parties to come forward. We will ask if there are other interested parties, but he or she is not listed.

Mr O'Neil: I guess I'd ask, if the owner of the property is refusing to pay some of these utility bills, what reason is he giving for this?

Rev Ms Eagle: What reason is the landlord giving for not paying the utility bills?

Mr O'Neil: Yes.

Rev Ms Eagle: I wish you could get him to answer that question.

Mr O'Neil: In other words, is the building in receivership? Does he owe money on the mortgage? Are the rents not being paid by the tenants? What's happening there?

Rev Ms Eagle: The tenants have been very conscientious about paying their rents, and as I mentioned before, they were very concerned about not paying the landlord the rents that were due because they did not want to look like bad tenants. They have been quite conscientious.

The landlord stopped paying most of the bills last summer after we had a conditional agreement to purchase the buildings, because we were making an application to the Ministry of Housing to turn them into co-op. We were not successful in our application to the Ministry of Housing, and when we discovered that in October, we also discovered he had paid no bills since last June. But during that time, he had collected fully all the rents and continued to do so until December. When faced with the imminent PUC shutoff, we then set up the trust fund. He is not very good at showing up at court. Even when he evicts a tenant, we can't even be guaranteed that he will show up to defend his own actions.

Mr O'Neil: Again, I guess I'm just trying to get at what the root is. In other words, there must be a little more back of this. If he realized that you were coming here today, has he not given you any reasons why, again, he has not paid these utility bills? Is he in arrears on taxes? Is he in arrears on mortgages? Are there any rents that are due to him? Do you know what the figures are there? In other words, there must be more background back of it. I'd like to get a little clarification.

Mr Blackwell: My understanding is that he is in arrears on a lot of things—taxes, mortgage payments, utilities. I don't think that he is an individual who is particularly interested in the property. My understanding is that the mortgage company, although it is owed a lot of money, is not prepared to take proceedings because it just doesn't want to step into the property that he has at the present time. We've had problems from a property standards standpoint with him. This has been an ongoing problem for the last three years.

I might say that he's not the only one in town. About five years ago, we had a different property where we had the same problem. There is in every municipality some individuals, thankfully a minority of them, who will buy a property, put people into it and figure that the only thing they're in there to do is to collect the rent

and that everything else will take care of itself, that the property taxes will pay themselves, that the utilities will pay themselves and that the building will repair itself. Those things just don't happen but those people don't understand that. They're in it for the buck and they get the buck out of it. Whether that is that person's approach to this property or not I don't know, but we've had a very dismal record with him and it's just an ongoing problem.

1030

Mr Tony Ruprecht (Parkdale): We of course sympathize, Ms Eagle, with the plight of some of these tenants. I'm just thinking about the nature of this bill here. I guess the first question I had is, the pictures you showed us here that are making the rounds, are all these units inhabited or are some of these units empty?

Rev Ms Eagle: The pictures you're looking at are from two units, unit 25 that we just moved the tenant out of on Sunday—he had lived there for about 10 years and he was an English-speaking tenant—and the other unit you're looking at is unit 18, where we have a Cambodian woman who lives there with her three children. She has also been the person who filed the human rights complaint against the landlord three years ago, which is now being dealt with by the Ontario Human Rights Commission. So you're looking at two residences which have been inhabited up to now.

Mr Ruprecht: So it's been empty for a week. Is that it, roughly?

Rev Ms Eagle: For a week, the one. The building itself, though, has lost tenants over the last three years as people have found that it has become more and more difficult to live there. As they have learned English, they have looked for better places to live. Up to now, there has been some need for the community to try to live together because they were able to give assistance to each other.

Mr Ruprecht: But that wasn't my question. Let me move on to my other question here and that is, are we talking about individual tenants harassed by the landlord, not the whole building? Is that what we're saying here, or both? This bill would cover, I would assume, both aspects: individual harassment plus a whole building change when the landlord may not be able to pay for the whole building. This bill will cover both, is that correct?

Mr Blackwell: Yes, this bill will cover both situations. It will cover the situations where, for example, each apartment or dwelling unit is separately metered but the landlord pays the bill, and it will cover the situation where there's one meter for the whole building and everybody—

Mr Ruprecht: Because we've had a similar incident in Parkdale and that's why I sympathize, in a way. But I want to get this clear. I guess I'll have another ques-

tion later on in terms of how this bill is different from the city of Toronto bill, because you said it goes beyond it, but I'll probably have a chance to ask that later. Ms Eagle, if we're talking about individual harassment here, and let's assume we closed that part of it, how would you recommend then that if tenants do not pay—either they're unable to pay because of unemployment, and of course that's a different set of rules here, but if they're unable to pay, what recourse do you see? I'm not even sure if you could answer this question or not—

Rev Ms Eagle: Yes, I can answer it. If a tenant is not paying the rent—

Mr Ruprecht: Right, for whatever reason.

Rev Ms Eagle: —for whatever reason, then the landlord has the same avenue open to him that every landlord has open to him, and that's under the Landlord and Tenant Act and that's to evict the tenant and rent the premises to a tenant who will pay. Lots of landlords do that. I certainly know the process for evicting a tenant. This piece of legislation does not affect a landlord's right to evict a bad tenant.

Mr Ruprecht: Yes. What we're simply talking about here is that the vital service is being maintained, essentially. Thank you very much.

Mr David Johnson (Don Mills): Perhaps to the solicitor: I'm looking at clause 2(3)(b), which indicates that this bylaw could be designated for a specific area within a municipality. Does that pertain to definite planning areas, or could that be specific to an individual building?

Mr Blackwell: That could be specific to an individual building. It could correspond to planning areas. It's admittedly a somewhat broad term, but certainly there have been cases decided under the Planning Act where the word "area" can be as precise as a single parcel of land. At this point, I'm not sure that would be the approach that London city council would take. I think that rather than dealing with it on an individual basis, the approach probably is to create a bylaw which is there standing and to administer it evenly as these situations arise.

Mr David Johnson: I interpret from that then that it's your opinion that it's the intent of the city of London to designate a uniform bylaw right across the whole city. Is that what you're saying?

Mr Blackwell: I believe that's certainly the approach that the administration would take in its recommendation to city council.

Mr David Johnson: Okay, the administration. Do I get the picture then—let me ask another question first. You indicated that there was one unit that was vacant in this building. Are there other units that are vacant?

Rev Ms Eagle: We've had a steady exodus from the building over the last three months as people have become increasingly concerned that they would not have

heat and hydro for their children.

Mr David Johnson: How many units are there in the building altogether?

Rev Ms Eagle: There are 40 units, 20 in each of the two buildings.

Mr David Johnson: How many would be vacant?

Rev Ms Eagle: About half of them are now empty.

Mr David Johnson: About half of them are empty. We have a picture, I guess, of a landlord who's probably not covering costs then more than likely.

Rev Ms Eagle: You have a picture of a landlord who appears to be his own worst enemy.

Mr David Johnson: Yes, but he's probably not covering costs. What's the vacancy rate in the city of London at the present time? Do you have that kind of statistic, anybody? I think here in Metropolitan Toronto it's about 2.2%. I think there are some people in the Niagara area who indicated it was 5% to 7%, actually, last night.

Rev Ms Eagle: Not of affordable rents.

Mr David Johnson: I'm talking the total vacancy.

Mr Blackwell: I don't have that statistic right offhand. Ms Mathysen has suggested 3%. I was going to say 5%. It's probably somewhere in there.

If I could make one comment, as a building empties of tenants, the maintenance then starts to go down and it's almost a self-fulfilling prophecy that the building becomes derelict.

Mr David Johnson: I think we're all very understanding in terms of the plight of the tenants, and nobody wants the tenants to be without heat or electricity at Christmas time or any other time of the year. Has there been any discussion in terms of the plight of the landlords as the vacancy rate climbs? I know that landlords in my riding are not covering costs. Some of them are not covering costs. The vacancy rate is going up and the value of their property has gone down over the last couple of years. It's been a real problem for them. I'm wondering if the city of London is having discussions along that vein as well.

Mr Blackwell: We haven't had any formal discussions with landlords, nor have they approached the city to indicate that they are facing any plight that would put them in a real money crunch. I would suggest there are techniques which landlords can use where they are not getting rent returns to cover costs. One would be to have a building separately metered and put the obligation for paying for these services perhaps on tenants. That would be one approach to ensure that those who get the supply are paying for the supply. But to answer the question, we have not been approached by landlords indicating that they are unduly suffering.

Mr David Johnson: Has the city of London looked at section 31 of the Planning Act, which permits

municipalities under emergency situations to do, as I understand it, precisely what it is you're intending to do through this bill?

Mr Blackwell: We've looked at that. We don't believe that the language of that emergency provision goes to the extent of comfortably allowing us to pay utility arrears and recovering them. It's for that reason we've sought private legislation. I know some municipalities do it. We've been asked to do it. We've looked at the legislation and we're not comfortable that we've got the authority to do that.

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Mr David Johnson: I understand Etobicoke, for example, has successfully used that section. Has London attempted it, or is it just an interpretation, that it probably wouldn't work?

Mr Blackwell: We've not attempted that. One of the problems with that section is that where you make an emergency order, you are then obliged to make a court application to confirm the order. That in itself is an extra step.

Following the normal property standards route is rather cumbersome. Toronto, of course, does not operate under section 31 of the Planning Act; it has its own property standards provisions that I think go back to the mid-1930s. They operate under their private legislation, which I think is somewhat broader than section 31 and allows them to pay these arrears.

We had extensive discussions with a number of municipalities, including Ottawa, and we were satisfied after our discussions that the more appropriate way of proceeding was to deal with the issue directly, to make it very clear what the parameters were of the scheme, and that's why we're here today.

Mr Leo Jordan (Lanark-Renfrew): Does this property owner have other rental properties in the city?

Mr Blackwell: I don't believe he has other residential properties. I think he has some commercial property.

Mr Jordan: Just observing from the pictures that were circulated, it would appear that some of the problems in the apartments could be corrected by the tenant. The mould on the bathroom tile and things like that look to me like just some good housekeeping there might improve the—

Mr Blackwell: Certainly, from the city's standpoint I don't want to leave the impression that every problem that is there is because of something that the landlord did or didn't do. Quite clearly, there are two sides to each story. We recognize that and we feel that there are certain conditions there that the landlord ought not take responsibility for, but the ones that are there and that are of some significance, we look to the landlord as being the one who can correct those and should take responsibility for them.

Rev Ms Eagle: If I could say something here too,

we are talking about conditions that have been going on for many years, so in terms of even housekeeping, some of the tenants get awfully tired of having taps that never stop running, and having to clean up the mould and mildew that is a result of a tap that can never be shut off in your apartment becomes really quite a problem.

But in terms of the landlord losing tenants, when I went to work in those buildings nine years ago, those buildings were full of tenants and they were also considered the best buildings in the neighbourhood. In nine years, you see the deterioration that has happened. Many of the tenants who lived there nine years ago have moved to neighbouring buildings. Those buildings have not been deteriorating.

This piece of legislation is not to go after the good landlords, but it's one that covers the delinquent landlords and goes after them. That's the protection that we need.

Mr Jordan: It would appear in this particular case that the city of London has been reluctant to enforce its standards bylaw and so on relative to basic requirements such as exit lighting and things like that, and the personal waste that's in the backyard and the grass not being cut. Are those not covered by your city bylaws, that if they were enforced, those corrections would have to be made?

Mr Blackwell: Of course we feel that we have enforced the property standards bylaw. The difficulty with the property standards bylaw scheme under the act is that it is a very time-consuming, cumbersome scheme, because what you have to do is you have to give notice of your intention to make an order, you have to have hearings, there is an opportunity for appeal and there's a period of time within which to make the repairs. If they're not made, then there has to be some action taken by the municipality to step in and do those repairs, and all the time, the situation is moving on.

These things, unfortunately, are not accomplished in days or even weeks, but they take months. I think Susan can certainly attest to this. We've attempted. She has already indicated that we had to go to the extent of even laying charges against this landlord and getting a \$6,000 fine before he would even respond to a property standards order to make repairs. We feel that we are pursuing this as aggressively as we can. We feel that this one particular problem of vital services is a hole that has to be filled, and it's not one that can adequately be done under the property standards scheme.

Mr Jordan: Does your fire department have a regular inspection of these public buildings?

Mr Blackwell: There are inspections. Whether they're on a regular basis or whether they're just done periodically, I'm not in a position to say.

The Chair: I have one questioner from the government side and then I'd like to open it up for any other

interested parties or the parliamentary assistant. I'd like to make sure that we get some of the views of the ministry, because I know that maybe some of your questions would be answered by Mr Hayes. Mr Hansen, your question.

Mr Hansen: I think a lot of the details that we're getting into in this particular bill—I'd take a look at the bill as being very progressive. I think the one thing to note here is that we have tenants who are paying their bills, paying the bills for electricity, water and all the services there, and what it comes down to is that the person who's handling the money to pay the bills is not paying the bills.

The deterioration happens to be, in this case, a landlord. I mean, we don't have to look any further than that. It can be X landlord. We always have bad tenants and we have bad landlords, but this will get a balance for the good tenant who has a bad landlord, because the landlord has the right to evict a tenant if he's not looking after his apartment properly, but the tenant has a problem that he has to cut the grass, he has to wind up having his own accommodation for garbage and his own plumber and everything else when he's paying for this in the cost of the rent that he's paying.

I think it's a straightforward bill. As we get into it, I have a few technical amendments to the bill which I will be called upon to proceed with. I think that we don't have to know what the vacancy rate is in London; that's not anything to do with this particular bill. It is the obligation of the landlord to see that the building is in proper repair. I think that's what we have to take a look at here.

The Chair: Is there any problem on the part of the panel sitting before me at this point if we open it up for any other interested parties, if there are any, in the audience, and then turn it over to the parliamentary assistant? Okay? No further comments? Are there any other interested parties who would like to come forward and make any comments with regard to this particular bill? I'll read the number again. It's Pr13. None? I would turn it over at this point to the parliamentary assistant to present some of the views and concerns of the Ministry of Municipal Affairs.

Mr Pat Hayes (Essex-Kent): The Ministry of Municipal Affairs certainly had some discussions back and forth with the people in London and Mr Blackwell and the local member, Irene Mathysen. One of the things we do is that we're concerned about certainly protecting the tenants and having fair legislation, and that's what this looks like. There are some concerns that we did have with it, and I think we've worked those out.

We are recommending an amendment, that the definition of "vital service" in section 1 of the bill be amended by striking out "includes" and substituting "means." He does that. Okay? We have that one con-

cern recommended, that one there.

The other one is that I guess I just want to make a point here, and that's subsection 3(3). Because of the nature of the vital services, the ministry will support the addition of these costs to the collector's roll. However, the principle that costs except those of a vital nature should not take priority over earlier claims, that should be recognized in future legislation.

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The other issue, of course, is dealing with clauses (f) and (g) in section 2, and I have to let the committee know in that particular section that the Ministry of the Attorney General recommends that clauses (f) and (g) of subsection 2(1) be deleted. These clauses make it a provincial offence for anyone to contravene or fail to comply with the bylaw respecting vital services and I guess the concern of the Attorney General is that (f) and (g) are unnecessary.

Of course, the wording on subsection 4(2) is another area where the Ministry of Municipal Affairs is willing to accept an amendment to that. Outside of those particular areas, the ministry has no objections except for that one area.

The Chair: Mr Hansen, did you want to put forward a—

Mr Hansen: I want to put forward an amendment to section 1. I move that the definition of "vital service" in section 1 of the bill be amended by striking out "includes" and substituting "means."

I move that subsection 4(2) of the bill be amended by adding at the beginning in brackets "(Despite the Landlord and Tenant Act)."

These are just minor amendments.

Also I would like to see the deletion of clauses (f) and (g) in section 2.

The Chair: Thank you, Mr Hansen. I did notice that Mr Ruprecht had his hand up for a question, so I believe it would be appropriate for him to ask it.

Mr Ruprecht: Madam Chair, I think Mr Hansen was so lucid just now that he just asked my question, so I'm very happy, thank you.

The Chair: Mr O'Neil, you had something?

Mr O'Neil: I notice that Mrs Mathysen doesn't seem to be in agreement with the (f) and (g) removal.

Mrs Mathysen: Might I speak to that, Madam Chair, just briefly?

The Chair: Yes.

Mrs Mathysen: In terms of section 2, clauses (f) and (g), the concern of the city was situations such as the Cheyenne situation where landlords have behaved in a way that concerns all of us, and as Mr Hansen himself has noted, has refused to pay utilities on behalf of tenants who have paid their rents in good faith.

The city would like to have the ability to make sure

that landlords know this is not acceptable behaviour and therefore included clause (f) and (g) so that there is recourse for the city at the end of the day for those landlords who don't fulfil their obligations to their tenants. So I would ask the committee to reconsider and allow those two sections to stay in the bill.

The Chair: Can I just make a point? At this point, the normal procedure is to go through clause-by-clause and make your comments sort of pro and con. We sort of jumped ahead and I plead being rather new in the job. I've given a certain amount of latitude, but at some point we've got to wrest control back and get down to doing this in some proper order.

Mr Blackwell, I'll give you your final comment and then we'll deal with the first amendment. Then I'll allow Mr Hayes to make his comments from the ministry side regarding clauses (f) and (g) as part of section 2. Mr Blackwell, I'll turn the floor to you.

Mr Blackwell: I simply wanted to address my comments to the deletion of (f) and (g). I can do that now or—

The Chair: Why don't you do it a little later, then, after Mr Hayes makes his remarks? All right. I would like to then turn to—so we have an amendment on section 1.

Mr Ruprecht: Madam Chair, if you will permit me, I had one minor or quick question I wanted to ask the solicitor before we get into clause-by-clause. Is that possible? Remember I mentioned that?

The Chair: That is very possible. I thought that had been taken care of, but feel free to do that.

Mr Ruprecht: No, that was different and I heard Mr Hansen make the comment earlier, that's why I was happy. But my question was, could the solicitor just very briefly outline or tell us how is this different from the city of Toronto bill? You're saying you're going beyond the city of Toronto bill and I'd like to know what you meant by that.

Mr Blackwell: As I indicated earlier, the city of Toronto has private legislation dealing with property standards generally, which it has had since 1934, and it has within its private legislation a provision which is somewhat comparable to the emergency order provisions of the Planning Act. However, the city of Toronto, in its private legislation, has, for example, the right to divert rents. I can't recall whether or not, under the City of Toronto Act, they're required to obtain confirmation of a judge for an emergency order, but it's quite clear that the wording of their legislation embraces things that are not only repairs and physical standards, but also amenities such as vital services.

In my reading of the City of Toronto Act and comparing it with section 31, I'm satisfied that section 31 really is directed towards the physical features of a building, maintaining things like windows and grass and

maintaining a heating system that is adequate to provide a certain temperature, but doesn't go so far as to obligate somebody to, in effect, provide the heat out of that system or through some other system.

Ottawa certainly was, I think, satisfied that it didn't have authority to do what we're seeking to do and what it is now doing and, therefore, it sought legislation and obtained it last year. So I think those are the differences between Toronto. Toronto is in a very unique situation because it has had this body of property standards legislation since the mid-1930s which it has operated under and continues to operate under. Other municipalities don't have that.

The Chair: Mr Johnson, you had another question?

Mr David Johnson: It's a general question. It's really not of this solicitor, but since we're talking about an act in the city of Toronto and one in London and one in Ottawa and one someplace else—I forget where else you mentioned—are we going about this the right way? I don't know who can answer this question. I'm not sure if Mr Hayes answers that question or the legislative counsel. Does the legislative counsel answer these kinds of questions?

Instead of going municipality by municipality and having a hodgepodge network of different bills, inconsistent and heaven knows what, wouldn't it make sense to look at legislation across the whole province?

Ms Lucinda Mifsud: From a legislative point of view, that would be the way to effect it, but unfortunately, there would have to be a policy decision made as to whether to do that or not, and that would be a ministry decision or a government decision or a cabinet decision. They may be able to speak to it at this point.

Mr David Johnson: But you agree with that?

Ms Mifsud: It would certainly achieve consistency, yes.

Mr Anthony Perruzza (Downsview): It would be better if your party had agreed when it was in power.

Mr O'Neil: God, we are not being partisan in here, are we?

Mr Hayes: Richard Doherty from the ministry will do his best to answer that question, and then I will.

Mr Richard Doherty: So far, we've been dealing with these on a request basis by municipalities, and at this point we view this as an opportunity to see how this works as a pilot project and take it from there. If more requests come in, we'll address general legislation, public legislation, at that time.

Mr David Johnson: But if there already are four of them or five of them, whatever there are in Toronto—is Toronto a pilot project or Ottawa a pilot project? You mentioned several.

Mr Doherty: Ottawa is relatively recent, and Toronto, yes, it's been around for a while.

Mr Hayes: It's quite different.

Mr Doherty: It's quite different, though, in the way that it's practising, as was mentioned. We're taking that this is our approach. If more requests come in from municipalities, we'll certainly address general legislation at that time.

Mr Hayes: I think it's a very good question, and when I went to Municipal Affairs, that's one of the questions I did ask: Why are we just doing one today and one a couple of months from now? I think it's a good suggestion.

Mr Ruprecht: Good. That's how this city operates. We get hundreds of these.

Mr Hayes: That's right. I agree.

1100

The Chair: Well, obviously there used to be a trend and then there's obviously a movement towards something else.

Mr O'Neil: I think that there certainly is a problem here that has to be dealt with, and it has to be dealt with right away. I think, by what we've heard around this table, that we have the commitment of the government that it will be looking at this so that when we have similar problems in other parts of the province, possibly we will have something done.

Interjection: There was a commitment by the government?

The Chair: Mr Perruzza, you had a comment to make?

Mr Ruprecht: I think there was a commitment by the government, wasn't there?

Mr O'Neil: Something like that.

The Chair: Well, I think if there is a trend, we tend to look at these.

Mr Hayes: We make commitments where others would not.

The Chair: There are 800 municipalities also, if I recall.

Mr Perruzza: The only comment I was going to make was that—

The Chair: If there are 800 municipalities, I think four somehow doesn't make a trend.

Mr Ruprecht: Why don't we just say there's a trend towards a commitment?

Mr Perruzza: Just in looking at the clock, we can, I guess, go on on a very general discussion about many of the implications and policy implications of these kinds of bills and legislation and that kind of thing, and vacancy rates in different towns and cities all across Ontario, but that doesn't mean that we would get through the agenda here today and deal with what's before us. So in view of that and in view of the fact that there are many people here who are waiting for us to

move right along, I would hope that we would do that.

The Chair: Thank you, Mr Perruzza. I would then move at this point to go through it clause by clause.

We have an amendment to section 1, which I believe you all have before you. Shall there be any discussion about section 1?

Mr Mike Cooper (Kitchener-Wilmot): On the amendment?

The Chair: On the amendment. All those in favour, then, of the amendment? Okay. Shall section 1 carry as amended? Carried. Thank you.

We have an amendment to subsection 2(1) which reads—

Mr Hansen: Madam Chair, I'd like to withdraw that motion—

The Chair: You would like to withdraw that motion?

Mr Hansen: —to eliminate (f) and (g) in section 2.

Mr David Johnson: Could I place that motion, then? I mean, we had no knowledge that this was going to be withdrawn.

The Chair: Yes, you can place that.

Mr Ruprecht: Why are we withdrawing this? What happened?

Mr O'Neil: Could I ask Ron why he's—we understand there was objection by Mrs Mathysen and by the lawyer for London, but again, was it not the recommendation of the ministry that those two sections be withdrawn, the Attorney General?

Mr Derek Fletcher (Guelph): We are in the middle of a vote, right?

The Chair: No, we're not. We're in the midst of discussion.

Mr O'Neil: You're in a discussion, and you want an answer.

Interjection: This is revolutionary.

Mr Hayes: If I may have the floor, Madam Chair.

The Chair: Please continue.

Mr Hayes: If you recall the comments that I made, the Attorney General's office was recommending this. Some of their concern was that in the Ottawa legislation, they don't have it, and Toronto, I think the other place was. But what I was saying to you was that the Attorney General made this recommendation. I'm not sure how strong they are about it, but that is not a recommendation coming from the Ministry of Municipal Affairs, which I am parliamentary assistant to. So we are not pursuing on behalf of the ministry. We'll just let the committee make up its mind on this issue.

Mr David Johnson: Is there anybody present from the Attorney General's office who could explain why they're opposed to this?

Mr Tom Melville: I can explain. I'm not from the

Attorney General's office.

The Chair: If you could introduce yourself as well, please.

Mr Melville: I'm Tom Melville from the legal services at Municipal Affairs. The Ministry of the Attorney General's position is that there's a multiplicity of offence provisions, and they don't want to see the courts tied up with prosecutions for offenses. This bill has alternative measures, including the lien as taxes, and therefore the offence provisions would be unnecessary. That's their position.

Mr David Johnson: Okay. So there seems to be some thought there. Now, the mover's withdrawing. Are we going to vote on his withdrawal, or how does that work?

The Chair: No.

Mr David Johnson: Can I move that (f) and (g), then, be deleted at this point?

The Chair: Yes, you may do that.

Mr David Johnson: Well, I'll make that motion now.

The Chair: Mr Johnson has moved, under subsection 2(1), that clauses (f) and (g) will be deleted.

Ms Mathysen, you had a comment to make there?

Mrs Mathysen: Briefly, my comment as previously stated remains, that at the end of the day, while we understand the Attorney General's concerns, it's still important for the city of London to be able to say to landlords who are delinquent and who are consistently delinquent that there is recourse. The city of London wishes to be able to have that recourse at its disposal. I believe Mr Blackwell has something to add.

Mr Blackwell: When I started my remarks, I emphasized the fact that the object of this legislation is not to see that the providers of vital services get paid. The object of the legislation is to reinforce the obligation on landlords to provide vital services when people are paying for them. Simply leaving the city with the right to grab rents or to put it on the tax roll leaves the city in the position of being a bill collector for a utility. That's all it is. It doesn't get anybody's attention.

If you take out clauses (f) and (g), take out clause 2(1)(a) because it has no purpose, take out clause 2(1)(c) because it has no purpose, take out clause 2(1)(d) because it has no purpose, take out clause 2(3)(d) because it has no purpose, what you're left with is a bill that simply puts the city in the position of being a bill collector.

I can tell you right now that the administration will not recommend that the city be in that position, and these people will be left to go back to the courts and deal with the situation in the same way they've dealt with it before. This is a big public issue as far as the city is concerned. I can't stress that too much.

The Chair: Thank you, Mr Blackwell, for making your point very articulately.

Mr Ron Eddy (Brant-Haldimand): I agree that clauses (f) and (g) should be left in. It has been pointed out that this is somewhat of a pilot project, so let's try it. Let's have it in, especially in view that the special legislation for the other municipalities doesn't have it in. I agree that it should be left in.

Mr Ruprecht: Just briefly, we're going to vote for this. It's obvious after Mr Eddy made his remarks. But just in case anyone missed this, what you have witnessed today was a power play between two ministries, and especially Mr Hansen. What Mr Hansen did was a trend. This is a trendsetting committee.

The Chair: Thank you, Mr Ruprecht. I am always happy to have a clarification of what really is going on.

Mr Perruzza: Madam Chair, I would like to request a recorded vote on this.

Mr Hayes: Wait a minute, please. Let me just comment. I'd like to correct Mr Ruprecht. I think it's not a case of a power struggle; it's a case of government members standing up on their own two feet and voting the way they want.

Mr David Johnson: Madam Chair, since we're throwing in comments, I understand a lot of the comments that have been made here and I understand, having come from the municipal scene, the problems with the property standards, for example. That's been alluded to here today. It's cumbersome and it's time-consuming, and I've gone through that. But I've gone through that with tenants in our municipality, and it takes some time, but if you get at it and direct staff and work hard at it, then you can do it.

When I hear that a tap has been leaking for six months, for example, then I have to say that the city of London isn't going through the procedures in a timely fashion, because I can tell you it doesn't take that long in East York. I'm sure it shouldn't take that long in London either.

But to come back to clauses (f) and (g), do I understand that what's being said here is that a person who contravenes or fails to comply with a bylaw would be guilty of an offence? Perhaps I'll direct the comment to the gentleman who's been so kind as to interpret the Attorney General's comments. That means then what? That they're guilty of an offence. I'm new here, so explain to me, what does that mean exactly?

Mr Melville: The first clause states, yes, that violation of the city's bylaw in effect would be an offence.

1110

Mr David Johnson: What's associated with that?

Mr Melville: Under the Provincial Offences Act, violation of a bylaw can be made an offence and it would have a consequence I believe of a \$5,000 fine

and a possible jail sentence.

Interjection: For each day?

Mr Melville: —no, no jail sentence.

Mr David Johnson: There's no jail sentence, but this is on record somewhere.

Mr Melville: Yes, it's in the Provincial Offences Act.

Mr David Johnson: So this is on a person's record. And what is the fine?

Mr Melville: It's a maximum of \$5,000 unless otherwise prescribed.

Mr David Johnson: Is that \$5,000 a day? I'm looking back and forth here, because we don't seem to have—

The Chair: Mr Blackwell, you had a comment?

Mr Blackwell: It would be \$5,000 for each offence, so if each day is an offence, then it would be a maximum of \$5,000 each day, or if the charge were for a series of days and it's only one offence that's charged, then it would be \$5,000 for that series of days.

Mr David Johnson: So it's possible if it was five days it could be \$25,000.

Mr Blackwell: Theoretically, yes, that's correct.

Mr David Johnson: It certainly allows that.

Mr Blackwell: Yes.

Mr David Johnson: Plus the fact that this would be on a person's record somewhere as an offence, plus the fact that the court system, which is clogged unbelievably today, has to deal with this kind of issue as well.

Mr Melville: That's the concern of the Attorney General, that it might result in clogging of the court system.

Mr David Johnson: And the Attorney General doesn't think this is necessary.

Interjection.

Mr Melville: Well—

Mr David Johnson: Okay, I'm going to stick with my suggestion to delete clauses (f) and (g).

The Chair: We have a request for a recorded vote. All those in favour of amending by striking out clauses 2(1)(f) and (g)? All those in favour, would you please raise your hand and the clerk will call out your name.

Mr David Johnson: In favour of the deletion.

The Chair: In favour of the deletion, of your amendment.

Ayes

Johnson (Don Mills), Jordan.

The Chair: All those who are opposed, again, please raise your hands and the clerk will read out your name.

Nays

Cooper, Eddy, Fletcher, Hansen, Hayes, Harrington, O'Neil (Quinte), Perruzza, Ruprecht.

The Chair: The amendment is lost.

All those in favour of section 2 as it stands? I believe the clause is carried.

Shall section 3 carry? Carried.

We have an amendment to section 4. This was moved by Mr Hansen.

Mr Hansen: Do you want me to read it? Okay. I move that subsection 4(2) of the bill be amended by adding at the beginning, "Despite the Landlord and Tenant Act."

The Chair: Any discussion on that particular motion? Seeing none, shall the amendment carry? Carried.

Shall section 4, as amended, carry? Carried.

Shall section 5 carry? Carried.

Shall section 6 carry? Carried.

Shall section 7 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill with amendments to the House? Agreed.

Thank you, Mr Blackwell, Ms Eagle, Ms Chann and Ms Mathysen, for your time and cooperation.

Mrs Mathysen: Thank you, Madam Chair. The people of Cheyenne thank you.

The Chair: While the room clears, if the other presenters could make themselves available. Mr Winninger?

CITY OF LONDON ACT
(COVENT GARDEN MARKET CORPORATION), 1993

Consideration of Bill Pr4, An Act respecting the City of London and Covent Garden Building Incorporated.

The Chair: We have another bill that has now come before us, which is Pr4, An Act respecting the City of London and Covent Garden Building Incorporated. The sponsor is Mr Winninger and the applicant is Mr Blackwell, the city solicitor for the city of London. Mr Winninger, would you like to make a few comments as sponsor.

Mr David Winninger (London South): It's certainly a pleasure to be here this morning and watch the proceedings unfold. It's equally a pleasure to sponsor Bill Pr4, An Act respecting the City of London and Covent Garden Building Incorporated, for the consideration of the committee this morning.

As some of you may know who come from the London area, Covent Garden Market is an ancient and venerable institution dating back to the 1800s when it began as a farmers' market in London. This bill before you today comes before you pursuant to an agreement between the corporation of the city of London and Covent Garden Building Inc. That agreement was dated January 25, 1993.

This bill, as I said, is further to that agreement between the city and Covent Garden Building Inc for the purpose of continuing Covent Garden as a statutory corporation and local board of the city. With that introduction, I'll turn the floor over to Robert Blackwell, the solicitor for the corporation of the city of London.

The Chair: Mr Blackwell, your comments are appreciated.

Mr Blackwell: Thank you, Madam Chair. I hope that this bill is testimony to the fact that the city of London not only has problem people but also has some very good people, civic-minded people. I say that because Covent Garden was created back in the early 1950s by a group of businessmen who were concerned about the downtown area, who felt that the market of that day should be revitalized, that the downtown area would be greatly assisted by having parking.

The council of the day was not courageous enough to take that on as a municipal undertaking, so these business people took it upon themselves to do this and entered into a series of agreements with the city under which they in effect said, "We'll put up the money, we'll put up the building, you give us the land and, once the debt is all paid off, we'll turn it over to you." That has been the regime for the last 40 years and we have now reached the point where Covent Garden is free of debt.

The building which the company originally built, however, has reached the end of its age and needs to be rebuilt and revitalized. The city council and the directors of Covent Garden concluded that rather than simply winding up Covent Garden and having the full responsibility taken back by the city, that there was a purpose in continuing Covent Garden but perhaps under a new life with a new face on it.

Basically that's what this legislation does. It's simply aimed at bringing Covent Garden from its status as being a non-profit corporation without share capital to the point of being a local board to provide for the appointment of its directors by city council, but representation, nevertheless, coming from the business community, and to allow Covent Garden to continue its responsibilities with respect to the market and with respect to parking.

I don't propose, Madam Chairman, because you've given me more than my share of time before the committee this morning, to go through the provisions clause by clause. They are sort of standard, boilerplate clauses dealing with a corporation and therefore I will simply leave it at that. I'll be happy to answer any questions that you or the committee members may have.

1120

The Chair: Yes, thank you, Mr Blackwell. We have one question at this point from Mr O'Neil.

Mr O'Neil: Have there been any objections on this bill from within council or outside of council?

Mr Blackwell: No, it has been a unanimous arrangement between council and the directors of Covent Garden.

Mr O'Neil: No objections from any of the people within the municipality?

Mr Blackwell: No.

The Chair: At this point I think it would also behoove us, since noes have been heard—there may be in fact some interested parties who do have a comment to make. So I would like to ask, if there are any other interested parties who would like to comment on Bill Pr4, to come forward at this time and take their place at the table.

Seeing no movement and hearing no scraping of chairs, I believe that the answer to that question is no, but we do have another question from Mr Ruprecht.

Mr Ruprecht: Yes, just a short comment, Madam Chair. There won't be any shuffling as this place is carpeted. But the reason I'm going to vote for Bill Pr4, and I want to make sure that everybody understands, is because of the remarks of Mr Winninger. He looked at this bill, he looked at all the items, and since he's behind it and supports this bill I see no problem whatsoever to recommend to the committee that we support it.

The Chair: Does that mean everything that comes forward in the House, Mr Ruprecht, if it has Mr Winninger's stamp on it will receive your approval?

Mr Ruprecht: No, no, this one—

Mr Winninger: Point of order, Madam Chair: I wonder if Mr Ruprecht had his tongue firmly in his cheek when he made those comments.

The Chair: Thank you, Mr Winninger. I think we can now ask Mr Hayes for a few salient comments about this bill.

Mr Hayes: You thought it was going smooth until now, eh?

The Chair: Yes.

Mr Hayes: Madam Chair, the Ministry of Municipal Affairs has no objections to this bill, thank you.

The Chair: So are there any further questions regarding Pr4?

Mr Cooper: Madam Chair, yes. Having been born in London and having visited Covent Garden, and it's quite comparable to the Kitchener farmers' market, I'll be supporting this because I think it's excellent for the city.

The Chair: Thank you, Mr Cooper. So I think we have exhausted the questions from the committee and we'll move to the clause-by-clause consideration.

So, shall section 1 carry? Carried.

Rather than go through one by one, the clerk tells me

we can say, quite simply, shall sections 2 through 19 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Mr Blackwell, I'm quite sure that you're happy this one went this smoothly. Thank you very much for your time. Mr Winninger, we'll definitely look forward to seeing you so we get Mr Ruprecht's vote on all these issues.

Mr Winninger: Always a pleasure.

OPTIMIST CLUB OF
KITCHENER-WATERLOO ACT, 1993

Consideration of Bill Pr85, An Act to revive The Optimist Club of Kitchener-Waterloo, Ontario, Canada.

The Chair: I believe, Mr Jordan, you have some guests here as well on behalf of Ms Witmer, and for the next bill if we can call forward Rudolph Kominek. Thank you very much. If you'll be seated.

Mr Rudolph Kominek: Madam Chair, and members of the committee, I'm Rudolph Kominek.

The Chair: Please feel free to be seated, and your guests as well, and we'll have you introduce them at your time of making a presentation.

Mr Kominek: Thank you, Madam Chair.

The Chair: Mr Jordan, if you would at this point make your comments with regard to Bill Pr85, An Act to revive The Optimist Club of Kitchener-Waterloo, Ontario, Canada.

Mr Jordan: Thank you, gentlemen, for coming this morning in support of this bill. I have the pleasure this morning, on behalf of Elizabeth Witmer, the member for Waterloo North, to introduce this bill.

The club was incorporated on October 12, 1956, but had operated for a number of years prior to that date as an unincorporated entity.

On September 8, 1982, the corporation was dissolved for default in complying with the Corporations Information Act. The officers and directors are elected on an annual basis, and it appears that an outgoing secretary did not advise the incoming secretary of the requirement under the Corporations Information Act and that the required filing was not made.

It appears from the records of the companies branch that notice of default was mailed to a Mr Kirsht on September 8, 1982. A Richard Kirsht had been a member and officer of the club, but circa 1982 he was transferred by his employer from Kitchener-Waterloo and apparently spent several years on a work contract out of Canada. The notice of dissolution was mailed to a Mr Boyer, who apparently was a member of The Optimist Club of Kitchener, which was another Optimist club in the Kitchener-Waterloo area. The Optimist Club of Kitchener voluntarily surrendered its charter in 1984.

The current members of The Optimist Club of Kitchener-Waterloo who were officers or directors around 1981, 1982 and 1983 were queried about the situation, and all state they had received no information with respect to either default or dissolution of the club charter.

In the latter part of the year 1990, the then current secretary of the club became aware that there was a problem relating to the club charter and the initial inquiries were made to the companies branch. As a result of the information obtained, this application has been put forward in the form of this bill, An Act to Revive The Optimist Club of Kitchener-Waterloo, Ontario, Canada.

The Chair: Thank you very much. I think we'll turn first to the applicant to make a few comments or, Mr Hansen, did you have something specific to say?

Mr Hansen: To save some time, I think that we can take a look. It's An Act to revive The Optimist Club of Kitchener-Waterloo. We have quite a few different charitable organizations coming before this committee with the same problem, where a notice has been sent out to a secretary, the secretary has resigned and a new secretary is put into place and there's no club address but a secretary at a home address. I think that we could make it very short. Maybe they would like to make a few comments on behalf of The Optimist Club—

The Chair: I'm quite sure they would.

Mr Hansen: —but I have no problem voting in favour of this particular bill, as there are Optimist clubs in my area also which are an outstanding community asset.

Mr Ruprecht: Just briefly, if Mr Hansen has no objection, hopefully we'll get a chance to introduce these gentlemen from the Optimist club. They're doing great work in Kitchener-Waterloo. As I said previously, there are now two MPPs, I want you to know, involved in helping you to revive this charter, Mrs Witmer and Mr Jordan. I think on those grounds alone—

Mr Hansen: You've got the same speech every time.

Mr Ruprecht: There's a lighter side to this place.

The Chair: There is, actually, a lighter side to this place, and Mr Ruprecht is showing it. I appreciate the fact that we're not always that partisan.

Mr Kominek: I see there's support on the left-hand side too.

The Chair: There is, absolutely. Mr Kominek, I think this is the time that you can introduce your colleagues who have come with you, if you have a few comments, and then we can probably move very quickly into the vote.

Mr Kominek: Yes. We have with us—excuse me; we forget we can sit in these hearings rather than jump

to our feet and speak from a standing position. That's the tradition of the legal profession. On my left is the secretary, William Kern, who was involved in bringing this matter to light—

The Chair: Very good.

Mr Kominek: —when he had to find a number and he found out there was a problem. Then to my right I have Al Galbraith—you are the lieutenant governor at this time, I believe—and Mike Kruk beside me. You are a past president?

Mr Mike Kruk: I was a past president that year, yes.

Mr Kominek: During when this matter came forward. This is very important to the club, to revive, because this club has a lot of real estate assets. They operate two rather valuable camp sites. They're in the name of the incorporated club, and we'd like to keep it that way, if we possibly could. There was no intention of the club to offend the companies branch requirements.

1130

The Chair: Very good. I think it's clear to all of the committee members that there was no offence intended. This happens so frequently, as Mr Hansen has pointed out, as a result of an omission that people are not aware of. So I appreciate your comments.

I think we can probably move very quickly into the vote. I do have the obligation to ask if there are any other interested parties who have some comments to make about this particular bill.

Mr Ruprecht: Madam Chair, one brief comment. Is Mr Hansen prepared to withdraw the charges that will apply to the Optimist Club?

Mr Eddy: I have a motion on that.

Mr Hansen: Just wait there.

The Chair: Okay. Mr Hayes, do you have any comments on behalf of the ministry with regard to this particular bill?

Mr Hayes: The Ministry of Municipal Affairs has no objections to this bill.

The Chair: Okay. Mr Cooper?

Mr Cooper: Obviously, as a member from the Kitchener-Waterloo area, the member for Kitchener-Wilmot, I'd be more than pleased to support my colleague from Waterloo North, Ms Witmer, and commend you on all the services you provide to the community.

The Chair: So let us move into the vote.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

I believe, Mr Eddy, you have a motion.

Mr Eddy: Yes. I move that the committee recommend that the fees and the actual cost of printing of all stages and in the annual statutes be remitted on Bill Pr85, An Act to revive The Optimist Club of Kitchener-Waterloo, Ontario, Canada.

The Chair: All those in favour of the motion as presented? Agreed? Carried.

Mr Kominek: Thank you, Madam Chair, and gentlemen.

Mr Kruk: Thank you for the ping-pong game.

The Chair: We do hope to make it interesting for you.

TOWN OF GRAVENHURST ACT, 1993

Consideration of Bill Pr19, An Act respecting the Town of Gravenhurst.

The Chair: We'd like to call on Mr Waters and Mr Black for Pr19, An Act respecting the Town of Gravenhurst. Welcome, gentlemen.

Mr Daniel Waters (Muskoka-Georgian Bay): Good morning, Madam Chair.

The Chair: Good morning. As the sponsor of the bill, if you would like to make your opening remarks.

Mr Waters: I'm quite hopeful that this bill will resolve a long-outstanding issue that's been going on for the last number of years over a portage that ran between two lakes in the southwest corner of Muskoka. Because of difference in water changes and the effects of the dam, it was not absolutely certain where the original portage, as laid out I believe in 1870, existed.

There have been, actually, court cases and a number of things over this, so the town has worked to resolve the issue by defining a new portage which should resolve all of the outstanding concerns by everyone who would like access to Deer Lake. I would refer to Mr Black for any detail.

The Chair: Mr Black, any comments?

Mr A.R. Black: Portages not being a big item in 1993, the subject matter of this bill is perhaps a little unusual. I'm sure, however, that you appreciate that Muskoka district is recreation country, and our greatest recreational assets are our lakes.

The lakes that we are concerned with here are clearly provincially owned water bodies and always have been. The town of Gravenhurst therefore has an interest in them because it is a recreational community. But the town of Gravenhurst is not a large municipality and the financial burden of this ongoing concern is one the town simply doesn't need, especially in today's economic climate.

For that reason, last November, I met with council, and on that day, we saw three alternatives.

One was to do nothing and allow public access to these particular lakes to be denied. This was not accept-

able either for local ratepayers or for the vacationing public that we always like to attract to Muskoka.

Alternative two was to assume one of the road allowances that are in the grid of the municipality, but if we assumed that for maintenance, that entailed the cost of improving that road allowance and it also entailed the ongoing cost of maintaining it. As well, there is in fact a matter before the court that was decided in favour of the municipality at trial but is heading to the Court of Appeal that deals with legal title to a portion of this road allowance. But that was not what we wanted to get into.

So the third alternative is the one that resulted in this application: move the portage, which, as Mr Waters said, existed in 1870, but it had existed for a long time before that. It was, if I may, the Highway 11 of the day when this was Indian country. If we could move that to a more workable location, it would be a dandy solution for several reasons.

I've had discussions with the Ministry of Natural Resources, and when it sets up a portage it generally likes to see an area that is reserved that's 30 metres wide. This road allowance is only 20 metres or, while metric is better, I still think 66 feet. But one of the reasons a portage that is properly set up in that regard is largely self-maintaining is that if you have a forest cover, the forest canopy prevents sunlight from getting to the forest floor, and the path, even though it might not be used more than, say, once a week or maybe several times a month, simply doesn't grow in. For that reason, even though the actual route—any canoe, especially a canoe that I have to carry, is seldom more than three feet wide, but to have 20 or 30 metres enables you to have this forest canopy to cover. It also provides you with an area where if MNR goes in maybe once every three or four years and checks the portage and sees a dangerous tree, it can fell it and there is adequate width to fell the tree and move it out of the way.

The third reason a good width for a portage is desirable is that there are the inevitable low spots. I am a canoeist as well as a solicitor, and I have several times, with 70 or 80 pounds on my back, stepped in a mud hole, and I can assure you, you go right to your knees. So there should also be room to move around any low spots on the portage.

Another reason I think the portage was the way to go is that as a practising solicitor in a small town, if there is a piece of legislation that has been of great benefit to Ontario, in my mind, in the last 20 years, it is the legislation in 1980 or thereabouts, the Occupiers' Liability Act and the companion Trespass to Property Act, which really updated the medieval law we practised for so long and made it very clear that recreational trails such as this would attract no liability to the municipality or to MNR or to a private land owner. In

other words, the person, whether it be me or anyone else, who puts a canoe on their shoulders and walks along that trail accepts all the risk of travelling on that trail, and if you stub your toe on a white pine root, that's your problem. And that's the way it should be.

So for all of those reasons, we felt the portage route was the way to go.

1140

The first thing we did was discuss it with the lands people at the Ministry of Natural Resources, and they also supported and approved what we planned to do. The next thing we did was to commission an up-to-date survey, and I have left with your clerk today copies of this. What is highlighted in orange is the original portage as it was in 1870 and before, and what is in green is the proposed portage. This plan has now been recorded in the land registry office. This one is still hot enough off the press that it hasn't yet been recorded, but it's available to you and you have a copy. I often think if you can see, it's helpful.

I think those are my comments on the history of the matter.

I've had an opportunity to review the submissions that have been filed with the clerk, and I would like to comment on two of them. The first is that the 1870 survey that was done by Mr Scott that is an appendix to the compendium was not an obscure plan. It was recorded in the registry office at the time and became the basis for all subsequent patents from the crown or grants from the crown. It became the root document for every search of title by a conveyancer or a lawyer who was doing a legal search. That original survey clearly illustrates the portage, and the grid allowance that was laid out on that survey was road allowances that were laid out for the purpose of reserving avenues of access so that it was possible to get to all parts of the land.

Bill Pr19 does not interfere with any matter before the court, nor does it purport to create any legal title to land. A right of passage is deemed not to be an encumbrance on land by subsection 44(1) of the Land Titles Act, under which all of the lands in this immediate area are recorded, and any suggestion otherwise is simply an attempt to mix apples with oranges, the apples being the right of passage that we are attempting to deal with here and the oranges being legal title to land, which we in no way wish to interfere with.

The only other comment I would make is that, again with reference to this, the existing portage, as highlighted in orange, on the Pine Lake end is in a cottage subdivision and on the Deer Lake end is at the location of a dam at the outfall creek to that lake.

Real estate or conveyancing law is not an area for that old saying: "Ignorance is bliss. Why be wise?" If people say, "Oh, we don't know about a portage there," it may be brought to someone's attention abruptly some

day when Mr Cottage Owner applies for a mortgage and the lawyer for the lending institution says, "You've got an outstanding legal interest there."

In that regard, if I may simply quickly go through the bill, section 1 extinguishes the right of that old portage. It would take it out of the way so that if Mr Cottager applied for a mortgage, that old 1870 portage is gone. Section 2 is intended to create the new portage along the unused road allowance. Section 3 sets up the right of passage, and the one thing I should comment on that one is that in my initial discussions with the lands people at MNR that I raised, they just said, "Of course." What the "of course" was is that, taking it to 1993 from 1870, something has happened in this land. We have put on the landscape a grid of public roads.

So when the portages were Highway 11, there were no public roads, but today, many recreational canoeists, myself included, if we're going out, we put the canoe on the roof of our car, drive to some convenient spot on a public road, park where it's appropriate, put the canoe on our shoulders and either walk to the one lake or walk to the other lake. I think that is something that is done all over Ontario, but in this bill we have tried to make it clear that if you can go over all of a portage, you can go over a part of a portage. I think it is mainly just recognizing what I would call the reality of canoeing today.

Paragraph 4 is the one that incorporates the Occupiers' Liability Act provisions which I suggested earlier are very appropriate. In fact, I will make the comment that I have two grown-up daughters and they both say to me, "Dad, you should be watching L.A. Law so you'd see how you really practise law." Everybody in the country does watch television and everybody wants litigation, and the purpose of that section 4 is to say, "Hey, no liabilities here."

Section 5 I think is something that is appropriate to include. It probably will not be used. When I say that, I have practised law in Muskoka for 30 years, and during that time I have become aware of an abundance of small parks, road allowances used for access, recreational trails and so on. By and large, they are self-governing, but every now and again a jerk comes along. The classic is the time when you have some motorcycle gang, but there are other scoundrels besides motorcycle gangs. When these people come along and decide they're going to have late-night beer parties or something, it's too late to start thinking, "Hey, how can we regulate this thing?"

So to have a section in there like section 5 provides somebody, in this case the municipality, with the authority to say: "All right, we will regulate it. There will be no use of this from sundown till sunrise," or whatever the appropriate regulation to cure the remedy that's causing a tempest in the local teapot. So it's there to be available if needed.

I think I have covered what we had to do.

The Chair: Thank you, Mr Black. It is now my duty to ask if there are other interested parties who would like to come forward. I am aware that there is a David Fraser. Mr Fraser, would you like to come forward, please, and take your place at the table.

Mr David Fraser: My name is David Fraser. I have been involved with this issue for some four to five years now. It's cost me personally thousands of dollars to enter this lake. I have never abused the lake nor has anyone who has come with me abused the lake. It is part of our Canadian heritage that that lake and every lake in the province of Ontario and, for that matter, in Canada, shall be retained for the public use. The portage has been there since 1870. Thank goodness for Mr A.B. Scott and our English law that was able to lay out our province and our country in the grid system.

There are parties who have purchased substantial amounts of land around these two lakes, and for them I totally agree that it is their land and that their land shall and should be protected against any individual who wants to hurt it. But they do not own the bottom of the lake.

In their writings to you, they say they own all of the lands around the lake. I am here to tell you that lot 34, Concession 12 in Wood township is owned by the Ministry of Natural Resources and/or the province of Ontario. This access via the portage would possibly cut this off. We have to be able to get to lot 34, Concession 12.

There are very many interested groups across Ontario that wish to use portages. In the past four and a half years, there have not been too many people who have come along and abused this lake. In fact, the Ministry of Natural Resources in a letter to myself has shown that there has not been any abuse on said lakes.

We have to retain this portage and any other portage that comes before you. I am going to agree with this and support the town of Gravenhurst. I hope that you people see fit that your children, my children and anyone else's children's children, if they want to get into this lake, by enacting this bill and marking the portage, goes forth.

1150

The Chair: Thank you, Mr Fraser. We have two other interested parties who've declared themselves; that is—

Mr O'Neil: Can I ask a question here of this witness?

The Chair: Yes, you may.

Mr O'Neil: So in other words, you're agreeing with the bill that's being proposed by Gravenhurst?

Mr Fraser: I am agreeing with it in principle, that we do retain it. I have one reservation and one reservation only, and that is section 5, the bylaws for the

portage. I do believe after talking with different solicitors that they cannot put a bylaw there saying that the public cannot use it. They cannot go against the Public Lands Act.

Mr O'Neil: In other words, because Gravenhurst is taking this one portage route and replacing it with another, which is the road allowance, it's still giving you access to these lakes. So from that point of view you support it, but what you don't support is when they take a portage route away and don't replace it with another?

Mr Fraser: Absolutely.

Mr O'Neil: So you are supporting the town of Gravenhurst on this bill?

Mr Fraser: I am supporting the town of Gravenhurst, that we have access to these lakes and to any other lakes, but these lakes in particular at the present moment.

Mr O'Neil: Right, okay.

Mr Fraser: That is my concern.

The Chair: Thank you, Mr O'Neil, and thank you, Mr Fraser. Seeing no other questions, I would call forward Mr James Walton, the president of the Beaumaris Fishing Club. Mr Walton, perhaps you would then introduce what other guests you have with you.

Mr James Walton: I will, Madam Chairman. My name is Jim Walton. I'm president of the Beaumaris Fishing Club. With me are Mr Birchall, our solicitor, and Mr McCook Miller, who is secretary-treasurer of the club. We're thankful very much to you to invite us, but I'd like to turn the discussion over to Mr Birchall.

The Chair: Thank you and, Mr Birchall, if you'd like to make your presentation.

Mr Charles Birchall: Thank you, Madam Chair. I may miss a point or two, so my friends will chime in.

The counsel for the town of Gravenhurst noted in passing the difficulties of litigation and I want to tell you that this litigation is still ongoing, as he correctly pointed out. It's on appeal and it doesn't involve a portage. What it involves are the road allowances and part of those road allowances are the subject of the portage.

That case is on appeal, and in our submission, we think that while that case is before the courts, this particular issue should not go forward, this particular bill. It's because some part of the road allowance is the subject of the litigation. Just for your purposes, the fishing club seeks a declaration that it is entitled, by virtue of a section of the Municipal Act, to the ownership of those original road allowances. Presumably, if that is successful on appeal, there may be other claims associated with the road allowances by virtue of the fact that it is a statutory interpretation that is the subject of the litigation.

The other submission that we would like to make is that at the moment there is access to Pine Lake. I think if you've seen our submission, there's a map attached to it and you'll see that there's access to Pine Lake now. The town has correctly pointed out, counsel has correctly pointed out, that at the moment, there is no public access to Deer Lake, and the lands around Deer Lake are owned by the fishing club.

What the town is seeking to do is rely on an 1870 document to say that there is in fact a portage route between the two lakes. In our view, we don't concede that. The one point you can take from all this is that in fact the portage hasn't been used since 1870 and has not received a great deal of use. It's on a map, but it isn't being used and it isn't being used to the point where cottages and other things have sprung up.

Rather than using this portage, however, they've suggested the use of a road allowance. If you look at their subsection 3(1) in their proposed bill, they've been fairly careful to make sure that you only need to use or intend to travel from Pine Lake on a portion or all of the portage. The reason for the portion is that if you look at the map, there is a current road called Snider's Bay Road that would intersect the portage or the road allowance.

In our view, what they're seeking to do indirectly is in effect an expropriation. If you go by way of expropriation, you can expropriate land, take a road into a lake, and what follows from that is a hearing process, compensation if there's injurious affection to the landowners. There's none of that in this case.

In our view, this is the wrong process. We should not be going by way of a private member's bill. For the record, the Beaumaris Fishing Club is not opposed to a portage per se, but what it is opposed to is the process, the use of a private member's bill when there is litigation before the courts, and two, it is opposed to the fact that there are other procedures which may be more appropriate, other administrative tribunals, not a private member's bill.

Those are my submissions.

The Chair: Are there any questions on behalf of my colleagues?

Mr Eddy: I request clarification on the point of expropriation. It's other than a road allowance that's proposed for use as a portage, is that correct, or is it the fact that it's an unused road allowance that you use the word "expropriation?" I don't see how you can expropriate a road allowance.

Mr Birchall: No, you can't. The reference to that is simply if you want to get access to a public lake, which Deer Lake is and Pine Lake is, you can expropriate land to build a highway from a current highway to the lake. They're not seeking to do that. The road allowance is an unused road allowance and the court case—part of that

road allowance we submit we own.

Mr Eddy: I see.

Mr Birchall: It is not a road allowance, in other words.

Mr Eddy: Where does the litigation stand at the present time? Has there been a court hearing on it? Are you expecting a decision soon?

Mr Birchall: I think counsel has correctly pointed out that the trial court rendered a decision, but there has been no subsequent hearing on appeal.

Mr Hansen: I'm still a little confused on this road allowance. I have 66 feet that run beside my property of 10 acres. The municipality owns that road allowance. I've maintained that road allowance, but the municipality still owns that road allowance.

Do you have any information that you can give us at what period of time you actually purchased this road allowance of 66 feet? Because it was unused does not mean that you have ownership. It's still a public piece of property.

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Mr Birchall: Mr Hansen, that is the very subject of the litigation. It is a question of whether in fact the Beaumaris Fishing Club owns the road allowance or not, and it's by virtue of a section of the Municipal Act, section 317. I don't want to get into the merits, because obviously a court will determine those merits ultimately, but you're correct. I mean, that is the debate: whether we own it or whether we don't.

Mr Hansen: I know at one time the 66 feet, with the people who own the property next to me, the municipality could wind up giving it, if it wanted to give it, or it could wind up selling it and split it down the middle.

Mr Birchall: Mr Hansen, I'm not directly involved in the litigation. My friend from—

Mr Hansen: But you have to understand the committee members have to know where you're coming from.

Mr Birchall: I understand.

Mr Hansen: Maybe I'd make the comments now, the point—I know on Lake Erie for a number of years the cottage owners were able to get fences installed at the end of road allowances. There was a dispute on high-water-level mark etc. Being a resident of the Lake Erie area, which I swam in for years, it wound up being cut off to the public to go on what I classified as public beaches. The cottage owners had the municipalities put signs up, "No Parking." I know that one comment that the solicitor had made, there was parking in appropriate places. Going up north as a southerner, I don't know where I'd be able to get into some of these lakes without the trails in order to get in.

I'm involved in the Niagara Escarpment, where the

Bruce Trail is, where it goes across private property. The concern I have is that I read somewhere in here—there's a lot of literature here to read it all over and get an idea of your problem there—it said that the road allowance of 66 feet wide was over rough terrain, where a person carrying a canoe could not stay on the road allowance and would have to go on to private lands. Could you explain that? Is that a true fact?

Mr Birchall: I don't think that's in our submission. I think it's in another submission.

Mr Hansen: You think it's in another one. Okay.

Mr Birchall: But if I can clarify a little bit further, the section in the Municipal Act that is the subject of the litigation simply provides that where a road allowance is created and a highway is constructed, in lieu of using the road allowance that road allowance falls to the owner of the land around the road allowance. The question is whether the Beaumaris Fishing Club falls within that category for the purposes of the section.

We're not here to debate that issue per se. All we're saying is that is the subject of litigation. The private member's bill that's being put before you today involves the road allowance, in part, which is the subject of that litigation. This bill should not be going forward with that litigation still under way.

We've also said that the Beaumaris Fishing Club is not opposed to a portage per se. It's just where it's placed, how it's used. It's a different process than the one that we're engaged in this morning.

Mr Hansen: Okay. Snider's Bay Road: Is that part of the portage? Is that existing on a map from 1870 that shows it going through there? This isn't expropriation. This is already shown on a map. That should be public land. The club is saying: "But they're not public lands any longer. They belong to the fish club because we've maintained them or we've had our possession and use of them for so many years." I'm trying to get this straight.

Mr Walton: I'm not sure what you're saying.

Mr Hansen: Okay, the Snider's Bay Road, the yellow mark—I've got your map out here. Is that shown on a map? I thought you were saying—

Mr Walton: Oh yes, that's the present road today.

Mr Hansen: You were talking about expropriation.

Mr Birchall: What I was saying was that the town could have expropriated land, at the moment, leading to Deer Lake. It hasn't chosen to do that. What it's chosen to do is come forward with a private member's bill providing for a portage, and part of that portage includes a road allowance which we say, by virtue of the Municipal Act, has devolved to us. That issue is being debated and litigated in another forum. All we're saying is that as long as that's taking place, you shouldn't be going forward with the private member's bill.

Mr Hansen: I'm sitting here not as a lawyer but as an individual taking a look at a mapped-out 1870, that what it showed was public lands, and that's what I have to take a look at today. If you dispute it, I think you have your legal recourse, but with the bill coming before this committee, I don't see that it's a problem for this committee to deal with. It is a problem with the fish club to say "on ownership" and going after the municipality at this point, if you follow me.

The Chair: Mr Eddy had a clarification.

Mr Hansen: But there's one other thing I wanted to put in here. In the Fonthill area, what we have now—and it was a conflict with the subdivision residents—is that between the subdivisions leading to another subdivision and parks, there are trails that children can take to go from one subdivision to the other in order to go to the different parks. At first people complained that this walkway, which was, I think, 25 feet wide, to get to the other park or get to the arena—they said they didn't want the chatter of young children walking along their homes. Today it's a plan in the Fonthill area which everybody accepts and agrees is one of the best things that was ever done, yet when it was being looked at, they said it was wrong.

Some of these things we take a look at, and I'd just like access to public parks, public lands, and that it's not cut off by private owners, but private owners shouldn't take the responsibility of them walking across their land.

The Chair: Mr Eddy, you had a comment?

Mr Eddy: Yes, I just want clarification. I don't believe that the private member's bill, if passed, would interfere with the decision of the court. If the court finds that indeed you do have title to a portion of the road allowance, then it could not be part of the portage, through this bill. I'd like you to comment on that, if that's the case.

Secondly, I believe you're requesting that the bill be tabled or deferred until a decision is made on the appeal. However, if the bill is passed, it couldn't affect the court's decision. The other question is, if the court finds that you do in fact not have title, you would agree with the bill going forward, is that correct?

Mr Walton: No, I don't believe so. I think that the intent of this is just not a portage from lake to lake, which is my understanding of what a portage is. I think we have been good stewards of this lake and this area for 70 or 80 years. We have the example of Hardy Lake in the area, which was made a provincial park, and it is a dead lake right now. I am concerned about the future ecology of this area if there is a parking lot on Snider's Bay Road with signs and arrows pointing towards it. I'm concerned about all the things that sensible ecologists feel.

A portage, from what I understand, is to enable

people to go from lake to lake. You hoist a canoe over your head, which I've done, walk through the woods on a narrow path and slip your canoe into the lake and paddle along. We have had pontoon boats come down road allowances. We have had bass derbies come in that were participated in by the Toronto police force. The intent, in my opinion, by the way the bill is written up, does not conform to my understanding of what a portage is. If there is a slim line drawn from lake to lake, that's a portage, but something with a parking lot and a 66-foot-wide right of way, that's not my idea of a portage.

1210

Mr Eddy: So your point is that at the present time, there is a portage, there is access by portage.

Mr Walton: I've never heard of it, but it appeared on this map. All the residents around have not heard of it either. I'm not going to contest that at the present moment, but that's what we're—

Mr Eddy: But you're saying there isn't presently a portage—

Mr Walton: There could be a portage.

Mr Eddy: —and there isn't public access of any kind to the lake at the present time, other than people who are around it and the club, and you want to keep it that way.

Mr Walton: There is a portage, right, that people have come on, neighbours have come on, with canoes. We have not objected to that; we are good neighbours. We like the area. I'm just concerned about the drift of where this is going.

Mr Eddy: I see.

The Chair: Mr O'Neil, you had a question?

Mr O'Neil: We've got different opinions here. I guess I would ask the Muskoka people to maybe say a few words and maybe yourselves again. I'd also like to ask the ministry, what's the ministry opinion on this?

The Chair: The ministry is scheduled to make comment, but we do have at least one other interested party who wants to come forward, but we can easily direct a question. Mr Black, would you please make some comments in light of Mr O'Neil's question.

Mr Black: If I may, I believe that—

The Chair: We don't all have copies of it, so it's a little hard to see from here.

Mr Hansen: There's a copy in here; you can get an idea.

Mr Black: I believe that following the Public Lands Act amendment in 1960, it was clarified by the Ontario Legislature that the portage as it existed in 1870 and prior was valid. That legislation was expressly retroactive and made it clear that the right of portage on the original route, as shown on Scott's survey, was still valid, and that is still valid today.

Mr Bunker, the Ontario land surveyor who prepared the plans you now have, showed an approximate location. Surveyors like to be right to the quarter of an inch, and he can't really say within five feet, but within five feet you could probably walk that portage today as it was in 1870. What the Indians who originated it many years before that did was pick the best and easiest route between the two lakes. That didn't take a rocket scientist.

When we talked with the Natural Resources people, the land supervisors in years gone by, they said, "We've got to stand by that original route." The only problem was to pin down exactly where it was.

But as I said before, we are not talking about legal title. We are talking about a right of passage over land, and that is not the subject of the court case. In fact—excuse me, I tend to talk better on my feet—the town of Gravenhurst, if this bill becomes a statute, is prepared to say to the Beaumaris Fishing Club: "You don't even have to take us to court. We will close that road allowance and convey it to you in accordance with the Municipal Act, subject to the right of passage into Deer Lake."

The portage, if there's any downside to it at all, is that it is discriminatory, because it doesn't allow everybody with a big boat to get in there. It discriminates in favour of the person who's prepared to put a 70- or 80-pound boat on his back and carry it over a forest trail, and I think that is going to really protect the ecology. That is the kind of thing which, if it became necessary, could be incorporated into a bylaw that we've made provision for in section 5. I am in favour of protecting Muskoka and the Muskoka environment as much as anyone else in this room, and I think this bill provides for that. At the same time, it provides for public access to a public water body.

Mr O'Neil: I can see the concerns that are being expressed. You've likely extended that same guarantee to the group that is there, and it doesn't seem to accept that. Or do you?

Mr Walton: This was the first time we've ever heard of anything like that.

Mr O'Neil: So if some of the people, the residents on the lake or the fishing club, have expressed their concerns today, and you're saying that the council of Gravenhurst would agree to incorporating something like this—I don't want to say give protection, because I also think lakes have to be open, but there have to be some safeguards—would the group be agreeable to something like this?

Mr Walton: I think we would certainly consider it.

The Chair: That's very good, and at this point—

Mr Walton: I'm not saying we agree with what has been said, because there's been a lot of things said in the past. I think we have to object to this bill. We do

have a court case in the legal system here in Ontario, and I think we really do stand on that. If something down the road can be worked out, that's fine, but our present position right now, as Mr Birchall said, is that this is really interfering with our right to appeal the court case that was awarded to us.

Mr O'Neil: Then I'd have to act upon the advice we've received, whether it be the Attorney General's office or whomever, as to where this would stand in case the bill were approved.

Mr Waters: If I might, Madam Chair, when the town first approached me about this bill, because it has been somewhat controversial throughout the Muskoka region, one of the things I said that I wanted to make sure the town had was MNR approval, because it had been my understanding that once a portage, always a portage; that it could never be taken away.

MNR not only gave them the approval but indeed clarified the fact that by moving the portage to something that was easily defined, namely, the road allowance, indeed it would have no objection to that and gave the town its blessing in that respect. So the town has gone to MNR, which is the appropriate ministry, over portages throughout the Muskoka region.

I would hazard to say that there are a number of portages in Muskoka, as elsewhere in the province, where indeed people do pull up on the side of the road or use a railway right of way or whatever to access half or a portion of that portage; that there has been easier access over the years put into the general regions of old, long-time portages, and that people have used modern conveyances to get to a portion of the portage to access remote lakes. It is not uncommon in Muskoka at all.

The Chair: Thank you, Mr Waters, for your clarification. I do want to give the opportunity to Mr Shawn Wilson, who has also indicated an interest, to come before us and make a presentation. I ask Mr Waters if possibly he could move to the side so Mr Wilson could come forward to the table and make his presentation. As you can see, you may be faced with a few questions, which I hope you will be prepared to then answer. Mr Wilson, the time is yours.

Mr Shawn Wilson: Thank you for having me here today. Excuse me if I talk fast. Just yell; I'll slow down a bit.

I have used the portage from Snider's Bay Road to access Deer Lake on several occasions, and I have met caretakers from Beaumaris Fishing Club on that lake several times and told them how I got into the lake. I have no problem with them on the lake at all. They don't bother me; I don't bother them.

I've fished Deer and Pigeon lakes for several years, and over that time have caught and released hundreds of fish. Over the years I may have taken home a total of 10 to eat. It's catch and release. Artificial lures have

always been the choice of bait, conscious and careful not to disrupt the ecosystem or the waterway or the natural inhabitants of the lake.

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Wildlife is in abundance. Canoeing on the lake has enabled me the pleasure of photographing loon courtship rituals, witness osprey (fish hawks), cormorants, red-tailed hawks and loon offspring rearing, to name a few things.

Accessing Deer Lake and Pigeon Lake has enabled myself and others to benefit from what we all share as a common right as Canadian citizens, something which many countries are not fortunate enough to enjoy—that is, natural resources, which in my opinion are second to none in all the world, and privileged access to these resources to appreciate, respect and learn from them.

Today I am here to try and confirm the certainty of public access to this waterway and state some concerns. I certainly support the town of Gravenhurst proposal. I think it does two things. I think it enables access by the public and I think it enables protection of the lake by instituting any bylaw which could limit access via the trail to canoes or whatever it would take if abuse in fact did occur. It's not occurring at this point from what I can see, and I'm out there quite often.

I do have a concern, and my concern is that the town does not have the power at this time or in the foreseeable future that would enable it to stop up, lease, license or sell or in any way take away our access to that lake. That's my only concern.

We are all responsible for the health of Canada's natural resources. The ecosystems at Deer Lake and Pigeon Lake are no exception. They are a piece of our total natural resource puzzle. I'm a responsible naturalist and angler and have Deer lake and Pigeon Lake's best interests at heart and hope to continue enjoying them and maintaining their excellent health.

If I may, I have a letter here from the Ministry of Natural Resources, August 2, 1990. Just in contrast to what the fishing club is stating as to abuse and overfishing, the MNR states that, "If an overharvesting of the fish in these lakes is identified, our ministry can apply regulatory controls to reduce that harvest at any time." I certainly would be more than happy, if there was abuse of any such waterway, to contain MNR or take care of it in any way I could to protect the lake.

Basically that's all. Thank you for letting me speak.

The Chair: Thank you, Mr Wilson. Are there any questions of Mr Wilson at this point? Seeing none, I do have to also ask if there are other interested parties who wish at this point to come forward and to make a presentation.

Seeing none, I will advise that in fact members have received copies of two further presentations in writing during the committee hearings today, so that you may

avail yourself of reading those and make your decisions in that regard.

Are there any further questions at this time before I turn to Mr Hayes?

Mr Eddy: Yes, Madam Chair. It appears to me that this matter could be negotiated between the town and the fishing club. I'd like to know if the town, having made an offer, as recorded in Hansard, to the fishing club, which is a new offer, I understand—but if an agreement could be worked out between the two parties, the town and the fishing club, and the viewpoint on that from the town, and also a deferral until the decision is made by the court, how urgent does the town consider this?

The Chair: Mr Black?

Mr Black: The suggestion I made earlier was not a new one. There has been negotiation and suggestion, between the parties, of establishing one route or another, and there have been several ways of getting into these lakes over the years.

When it looked like something was going to proceed, suddenly it died, and when this proposal of a private bill arose, the first thing I did last January, once we had the approval of the MNR, was to write to Mr Walton and tell him exactly what we were planning to do. I have, to this day, received no reply to that letter. The only thing I got was a faxed message dealing with a collateral severance. When the compendium was put together and the application was put together and it was mailed to the legislative clerk, a copy that same day went to the club, and again we've got no reply.

I feel very much like the farmer with the animal whose attention he had to get. It took a piece of cordwood to get the attention. I'm sure you've heard the story. I think we got their attention. But that's the way I feel about it and that's the way the town of Gravenhurst feels. We dearly would love to see this proceed and we do not think that the one matter—that is, the right of passage—is interfering in any way with the court case. They are separate issues: legal ownership of land and right of passage over land in accordance with section 44 of the Land Titles Act.

Mr Eddy: Yes, but is the town prepared to put in writing to the club the offer to turn over the road allowance, as you have just stated?

Mr Black: Oh, yes.

Mr Eddy: That's still an offer and you'd be prepared to put that again in writing to the club?

Mr Black: Yes.

Mr Hansen: In respect of the two parties talking about the use of this road allowance or trail, in section 5 of the bill it says, "The town of Gravenhurst may make bylaws respecting the maintenance of the portage trail and the regulation of traffic on it." I think you brought up about a pontoon boat going down there. I

think this is the area of negotiating with the municipality to say: "This trail is to be used for this type of travel. It's a backpacking or canoe-carrying area, to go from one lake to another." I think in there there's protection for all parties here.

If there are problems with this road allowance on going from lake to lake, the club could come to the municipality and say, "Hey, when this bill was passed, section 5—if we sit down and talk about this, we've got some problems." I would say the town of Gravenhurst is taking a look at keeping the Gravenhurst and Muskoka area looking like it is today without destroying the natural paths running through. I don't see any highway going in or anything else; this is a walking trail.

The Chair: Mr Hayes, I think it's probably appropriate at this point that we hear from you.

Mr Hayes: I think so. Just for the committee's information, the Ministry of Natural Resources has indicated to the Municipal Affairs ministry that it does not have objections to this bill. Also, the Ministry of Municipal Affairs really doesn't have comments on it or is not going to make any recommendations, because it actually does not affect the ministry policy or legislation in Municipal Affairs. In other words, we are not objecting.

Mr O'Neil: Again, really I think it's a concern of everybody. It's a concern of Muskoka, it's a concern of the club, it's a concern of the naturalists that these people, I think all of you, do not want to see this opened up as a 66-foot road allowance with traffic travelling on it or motorcycles or whatever it might be. I'm more or less understanding from the council of Muskoka that it will be maintained as a nature trail and nothing else, not widened for anything else. Is that the understanding?

Mr Black: That is what we very firmly have in mind.

The Chair: Mr Fraser, you indicated you had maybe a final comment to make?

Mr Fraser: I have one—

The Chair: You'll need to get to a mike; you have to get to a mike. Otherwise, you won't appear on Hansard and your words will not be there for all to see.
1230

Mr Fraser: I have only one question. Mr Walton has brought up that they are in litigation. Mr Black has said that under no reason will this affect the litigation of that aspect. At the present moment, you're being asked to extinguish the existing portage and create a new portage. My legal question to the members who are here is, if litigation at a later date does come on the side of one party or the other and you have extinguished the old portage and put the new portage on the road allowance, where does that leave the portage? I'm sorry to raise that fly in the ointment, but I want the portage.

Mr Black: I say it simply leaves it on the road allowance. All we've done is move it from an orange line to a green line, and all we're doing is saying there's a right of passage. We're not concerned with legal title.

The Chair: Any final comments?

Mr Walton: I have to say it just sounds like I'm a little bit defensive, but Mr Black talks about communicating with me. I don't know where that was, and to this day Mr Black never did send us a copy of this bill. We got it from another source. He did not copy us on the bill at all, so we found out about it through other ways. There's been a little, you know, jockeying back and forth. I can understand that, but I did want to set the record straight on that score, that I'm normally responsive when asked.

Mr O'Neil: I noticed Mr Black looking through his correspondence here. Have you a record that there was sent—

Mr Black: I wonder if Mr Walton would look over my shoulder.

The Chair: Mr Black, no. I think there are some of these points—we could be sitting here through a long day which I prefer that you either dealt with in the hall or in another meeting at another time. You can work out what mailing addresses are appropriate for communication and check with your different secretaries on how communications have flowed between you. I think that really isn't up to this committee to do at this time. Being a librarian in the past, I do understand what mailing lists are about and the fun of maintaining them, but under the circumstances you get my drift.

Mr Birchall, one final comment and then I'm going to, I think, just of necessity call for a vote on this issue.

Mr Birchall: It's really geared to the comment or the question that Mr Fraser raised, which is appended to this bill, and forming part of it is the schedule which creates the portage. The difficulty is that you need to have a schedule for the portage so you know where it's going. While Mr Black has correctly pointed out that a portage is a right of passage and not legal title, presumably the better route, no pun intended, is to have the two parties determine, along with the other owners between Deer Lake and Pine Lake, what the best route would be. Then, if a bill needs to come forward to enshrine that, fine. But the difficulty today is that you have a party before you who has a difficulty with the description of the route because it is, we suggest, part of another proceeding. Thank you.

The Chair: Thank you, Mr Birchall. Any other questions? Mr Eddy?

Mr Eddy: No, I didn't have a question. I had a proposed amendment.

Mr Hansen: The remarks Mr Black has made here is that the fishing club can use those later on, and what you would do as the town of Gravenhurst to ensure the

type of travel along that particular route. So if you keep a copy of Hansard, you've always got something to back up.

The Chair: I would ask, seeing no further comments, that we—Mr Eddy, did you have a—

Mr Eddy: I have an amendment to section 2.

The Chair: Okay, we'll just begin then. Members are prepared for the vote? It looks that way, so shall section 1 carry? And section 2?

Mr Eddy: I move that section 2 of the bill be amended by adding the following subsection:

"Limitation

"(2) Subject to this section and section 3, this act does not affect the title or ownership of any land over which the portage is established."

The Chair: All members have received, I believe, copies of that amendment. Any comments? All those in favour of the amendment? Okay.

All those in favour of section 2 as it has been amended? Agreed.

All those in favour of sections 3 through 7? Agreed.

Shall the preamble carry? Agreed.

Shall the bill carry? Agreed.

Shall I report the bill, as amended, to the House? Agreed.

I thank very much the various witnesses for their participation.

COMMITTEE BUDGET

The Chair: We do have one small order of business for the committee and it is called the budget. I hope you have all had a very quick look at it. I understand that our biggest cost will be the printing of some regulations which have accumulated over a period of time from approximately 1989 forward. I guess we have accumulated enough of them to warrant a publication, so that printing budget is possibly a little higher than usual. If there are any other questions or explanations that are required, the clerk and I are prepared to accept your questions.

Mr Cooper: I move that the budget of \$20,200 be adopted and be reported to the Board of Internal Economy.

The Chair: Thank you, Mr Cooper. Any other comments or questions? Seeing none, all those in favour of the committee budget as presented? Agreed? Carried.

Thank you very much, gentlemen, and enjoy your lunch. This committee stands adjourned.

The committee adjourned at 1238.

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STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

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- *O'Neil, Hugh P. (Quinte L)
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- *Ruprecht, Tony (Parkdale L)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Cooper, Mike (Kitchener-Wilmot ND) for Mr Mills
Harrington, Margaret H. (Niagara Falls ND) for Mrs MacKinnon

Clerk /Greffière: Pajeska, Donna

Staff / Personnel: Mifsud, Linda, legislative counsel

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Third Session, 35th Parliament

Assemblée législative de l'Ontario

Troisième session, 35^e législature

Official Report of Debates (Hansard)

Wednesday 9 June 1993

Journal des débats (Hansard)

Mercredi 9 juin 1993

**Standing committee on
regulations and private bills**

**Comité permanent des
règlements et des projets
de loi privés**

Chair: Christel Haeck
Clerk: Donna Pajeska

Présidente : Christel Haeck
Greffière : Donna Pajeska



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A new coat of arms appears on the cover of Hansard. Presented to the Legislative Assembly of Ontario by the Governor General on 26 April 1993, it emphasizes the distinctive character of the Assembly and distinguishes the Assembly's identity from that of the government. It was created at this time to mark the bicentennial of the First Parliament of Upper Canada and the centennial of the present Legislative Building. Further information may be obtained by calling 416-325-7500.

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La table des matières des séances rapportées dans ce numéro se trouve sur la couverture à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et d'autres personnes ayant participé.

Renseignements sur l'index

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LEGISLATIVE ASSEMBLY OF ONTARIO

T-37

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 9 June 1993

The committee met at 1009 in committee room 1.

SISTERS OF CHARITY AT OTTAWA ACT, 1993

Consideration of Bill Pr81, An Act respecting The Sisters of Charity at Ottawa.

The Chair (Ms Christel Haeck): Ladies and gentlemen, we'll call this meeting to order. The first bill we will be considering this morning is Bill Pr81, An Act respecting The Sisters of Charity at Ottawa. Mr Grandmaître, you are the sponsor; if you would introduce your applicant, and you will be making your opening remarks.

Mr Bernard Grandmaître (Ottawa East): Marc Babinski is the counsel for the Sisters of Charity. Marc will answer all your technical questions, if you do have any. It's a very simple bill. I don't know why we're wasting our time. I think it should be approved and we should go on with something else.

But let me briefly give you the background, the history of the Sisters of Charity at Ottawa. They were first incorporated back in 1849 and this morning we're applying for special legislation to exempt certain lands from taxation for municipal and school purposes. The Sisters of Charity operate a health centre known as Élisabeth Bruyère Health Centre, and also under the same roof, a nursing home known as Villa Marguerite. This building is the former Ottawa General Hospital, which was exempt from taxation, as you know.

This organization, this corporation, has never made a profit. In fact, I can give you some examples of the deficits that have been accrued. Back in 1989-90, the deficit was \$15,000; in 1991, \$85,000; in 1991-92, \$50,000; and this year, 1992-93, the deficit will be in excess of \$100,000. We figure that this corporation needs a tax break and the city of Ottawa has agreed through a resolution to exempt the building and land from municipal taxes, and we are before you this morning to give us this kind of exemption. If it's given to us, then the regional government of Ottawa-Carleton, through a resolution, will approve your decision of this morning.

I have introduced similar bills in the past, such as Pr2, the Children's Oncology Care of Ontario, and also Pr47, the National Capital Children's Oncology Care, and also the South Ottawa Services Foundation. That's Pr13. So we're not asking for any special favours. We want the Sisters of Charity to be treated as everybody else. Did you want to add something, Marc?

The Chair: Mr Babinski, did you want to—

Mr Marc Babinski: Just a few points that I'd like to make to supplement Mr Grandmaître's comments. He

pointed out that about three quarters of the costs for the residents are subsidized by the Ministry of Health, so by not providing an exemption and not letting this bill pass, it's going to increase the pressure on the Ministry of Health to provide more funds for the operation of the nursing home, perhaps to the point where it may want to reconsider whether or not it can operate at all.

The second point is that the villa is subject to taxes because it was given its licence under the Nursing Homes Act, and under the particular legislative arrangement that we have now, we have certain inequities which are resulting. We have charitable homes for the aged, which perform exactly the same function as Villa Marguerite, that are exempt from taxation. At the same time, the Ministry of Health is not issuing any licences to nursing homes that are operating on a for-profit basis. So the only people now who are in the nursing home business are people like the Villa Marguerite that are operating a not-for-profit business. At the same time, we have people who are doing the same thing, municipal homes for the aged, that are not subject to tax. So there is, in my opinion, an inequity.

The additional problem that we see coming down the pipe is that Bill 101, which is attempting to address this particular problem of all the various categories of nursing homes, is not going to relieve this inequity. There's still going to be this problem if Bill 101, in the form that it is in now, is passed. So we have an additional concern there, that we are going to be faced with the same treatment even after Bill 101 becomes law.

An additional point that I'd like to also point out is that I like to step back from it, and not being a government person, as a layman, I say, "Why is the Ministry of Revenue doing this?" They're doing it, I would suppose, to increase the tax base. But I'm not really sure that this is what the result is.

If you have three quarters of the funds there coming from the Ministry of Health, what you're really doing is moving the money from one pocket to the other. The other one quarter, I suppose, is going to have to come from the funds that are generated within the villa, but it operates on a not-for-profit basis. So the end result is, I don't think you're increasing your tax base by very much, and with all due respect to the Ministry of Revenue and the Ministry of Municipal Affairs, I don't really think that the public policy objective which is intended to be reached by taxing the health centre is going to be achieved. You're just moving money from one pocket to the other.

I'd also like to point this out: Most, if not all, of the

residents are on an old age pension, so where they're going to get the extra money to meet the costs is from their pension.

The most important point of all here is that I think you may all agree that what is happening is a shift of revenues that are in the direct control of the provincial government to the municipality. The basic result of this is that the funds the Ministry of Health has under its control and is transferring for the operation of this nursing home will be basically going into the hands of the local municipality.

I would like to remind you that in Ottawa the priorities of the local municipalities seem to be not the kind that are served by the old age home, which are the needs of the aged and pensioners. What we have in Ottawa now, tax funds are going to finance the new city hall, which is millions of dollars; to finance the new baseball stadium. At the same meeting at which we asked the regional municipality to exempt us from taxes, it told us: "The region's policy is to send this back to the local municipality. We don't have anything to say about it." But at the same meeting, they exempted the baseball stadium from the payment of municipal taxes.

Mr Grandmaître: My private member's bill.

Mr Babinski: This is obviously a point that Mr Grandmaître couldn't raise. All of this to me suggests that if the government has a priority for the care of the needy and moving away from financing projects like a baseball stadium, I think this is an opportunity for that particular interest to be served. Those are my submissions.

The Chair: Thank you, Mr Babinski. I would like to call on any other interested parties at this point to come forward and make their presentation. I have you down, Mr Johnson, but if I can ask, first of all, the parliamentary assistant, because I think some of his remarks will be of interest to you.

Mr Pat Hayes (Essex-Kent): I just want to make a couple of comments on behalf of the Ministry of Municipal Affairs, just to point out a couple of things. We are actually opposing it; I'll let you know that up front. First of all, it's not a registered charity and there have not been property tax exemptions granted by private bill for applicants who provide health centre and nursing home facilities, and this application would create a precedent which could be used by a large number of similar organizations.

The other area is that it should be noted that any such decision could have a large impact on the municipal tax base and, at the same time, when the tax base is under considerable pressure, the regional municipality in Ottawa has actually opposed this bill by resolution also. So I just want to inform the members that we are opposing it.

I do have one question, though. This group owns 12 other properties. What are these other properties? What kind of operations are they?

Mr Grandmaître: They're in the health care business, hospitals and nursing homes and so on and so forth, all non-profit. But, Madam Chair, I would like to correct the parliamentary assistant.

The Chair: Yes. I noticed that you were—

Mr Grandmaître: Yes, the city of Ottawa did approve it.

Mr Hayes: Excuse me; I'm sorry. I'm saying the regional government has opposed it.

Mr Grandmaître: The regional, I'm sorry. Well, I'll let the real lawyer talk about that.

Mr Babinski: I think there's a difference here which is very important. I think there's a difference between the region saying, "We oppose this," and the region saying, "We're not going to consider these any longer and we're sending it back to the area municipality." I've included in the compendium a copy of the finance committee recommendation which was adopted by the council of the regional municipality. I don't think that was a refusal, though. I read that as saying: "We just don't want to consider it. As a matter of policy, we don't want to touch it." I don't think that's the same as opposing it.

1020

Mr Hayes: I can't argue that right at the present time. We are waiting for a copy of the resolution that they have made. Apparently, it's on its way here, so hopefully it will come here shortly.

Mr Grandmaître: But it is the policy of the regional municipality not to deal with those questions. They send it back to the local level. The city of Ottawa, as I pointed out, through a resolution approved this.

Mr David Johnson (Don Mills): I guess some of the questions have been answered, but do I gather from the conversation that the city of Ottawa is in actual support of this application?

Mr Grandmaître: Yes.

Mr David Johnson: In the terminology, it says the applicant is not a municipality. If the city of Ottawa is in support, is this the regular routine for this sort of bill to come forward?

Mr Grandmaître: Through the Municipal Act and also the Assessment Act. This is how it weaves its way.

Mr David Johnson: Now, I don't know, maybe this is a question to the legal counsel or somebody. If the city is in support of an application for the—this is for the elimination of the assessment, I guess, essentially, isn't it?

Mr Grandmaître: Yes.

Mr David Johnson: Then would it not be common practice for the government to acquiesce to the wishes of the—is that common practice?

Ms Susan Klein: I couldn't answer that. I don't know.

Mr David Johnson: Is there anybody who could answer that?

Mr Grandmaître: You still need—

Mr David Johnson: I realize we still need a bill, but in most circumstances, if a city requests something of this nature, would it be common practice, because it impacts largely on the city in question? It also impacts on the region, of course, but—

Mr Hayes: If I may, Madam Chair, on that point, the breakdown in taxes would be that the city's share would be 18%, the region's share is 30% and the school board's share would be 52%.

Mr David Johnson: But the school board hasn't taken a position.

Mr Hayes: So it will affect the school board and it will affect the region more than it will affect the city. Those are the points that I raise.

Mr David Johnson: Still, my basic question, though—it was my understanding that if the city passes a resolution, the onus is basically on the city itself, and if it determines that it wants to support an application like this and that the assessment should be—what's the word?—washed out or eliminated—

Ms Lynnette Coy: I can say—

The Chair: Excuse me. Just before you continue, would you introduce yourself for Hansard. You might have to move over, just to be picked up by the mike.

Ms Coy: My name is Lynnette Coy. I'm with the municipal finance branch of the Ministry of Municipal Affairs.

Our concern with respect to such exemptions has been that even if the lower tier does approve it, we have some concerns for the ratepayers in the rest of the region, because what it means is that the exemption is going to be removed from the roll and it does affect the ratepayers, the upper-tier costs, as well as the school board's sharing of those costs. So we are concerned about the ratepayers.

Mr David Johnson: I appreciate that. I'm new here, so maybe you could help me out a little bit. You must see quite a number of these kinds of applications coming from various cities, maybe not exactly in this form, but something similar. What would the common circumstance be? Would the ministry generally go along with it or—

Ms Coy: Usually, our support has been for more recreational type charities, but we've always encouraged them to have approval of the upper tier, and they usually do.

Mr David Johnson: So this wouldn't be a precedent then, for example, where the ministry has opposed a request—

Ms Coy: It would be for us, yes.

Mr David Johnson: This is a precedent? This is the first time—

Interjection: Because of the nursing home aspect?

Ms Coy: Because of the nursing home aspect.

Mr David Johnson: So this is the first time that the ministry has actually ever opposed a local city?

Ms Coy: No, no.

Mr David Johnson: It's not a precedent?

Ms Coy: No, it's not. We have opposed such bills at times, yes.

Mr David Johnson: You have opposed them in the past?

Ms Coy: That's right.

Mr David Johnson: On a number of occasions?

Ms Coy: That's right.

Mr Ron Hansen (Lincoln): One thing I just wanted to get an idea of is the amount of taxes that are involved in this exemption. Can we just get a figure on that?

Mr Babinski: I can answer that question. I have the tax bills with me. For 1992, the basic rate, the quantum was \$28,730.12. There was, however, a reassessment which resulted in an additional \$19,798 of taxes being charged against the property. So the total taxes for 1992 are in the amount of \$48,529.11. I'll say that again: \$48,529.11. This year, the first three instalments total up to about \$18,112.52. That may double over the year. I'm not sure what the taxes for the whole year will be.

If I may, I'd like to say, to reply perhaps to the parliamentary assistant's concern and the Ministry of Revenue's concern, that this burden will be shifted to the rest of the community. I don't believe that \$48,000 a year is going to create as much of a burden as a decision to exempt the baseball stadium from taxes, which I'm sure would produce at least three or four times as much per year.

Mr Hansen: Okay. The reason I asked, because I was just looking at your deficit: 1989-90 was \$15,000; 1990-91 was \$85,000. I guess why you applied for this—it would just sort of flat-line your budget without a deficit.

There was another—on page 6, item 8 and item 10. I was wondering, reading through here it says, "There are no persons or groups known to the applicant to be opposed to the bill except as shown in item 6."

Mr Grandmaître: Is this the compendium, Ron?

Mr Hansen: Yes.

Mr Babinski: Item 6 just lists the interested parties. We've attached the affidavit of Roger Pepper, the clerk, city council, city of Ottawa, to the documentation. It's an affidavit showing that the city council approved the recommendations of the city's finance committee to support our request for an exemption.

Mr Hansen: I didn't see that in here.

Mr Babinski: Okay. I can provide you with a copy. I have some with me if you need that. If for whatever reason that's not attached—

Mr Hansen: No. I was just reading here and I was just wondering because it says, "There are no persons or groups...." Also number 10: "...to the applicant to be opposed to the bill except as stated in item 6." That would be just the region then. Okay. The clerk has a copy here.

Mr Babinski: Just to clarify again, to reiterate that, as we stated in the compendium, there was a refusal to consider the request by the region and not a refusal of the request. They didn't want to hear it, they didn't want to talk about it, and to me that's a lot different from them saying, "We're rejecting it." They're saying as a matter of policy, they're not considering any of these requests.

I have to point out, for the purposes of clarity, that the Catholic section of the French-language school board has opposed this request, and that's in the compendium.

Madam Chair, I just was wondering if I could also address some of the comments that were made by the parliamentary assistant.

The Chair: We have two more questioners, but I am interested in hearing your remarks. That might in fact clarify some of their questions, so I will cede the floor to you at this point.

The two questioners I have on my list are Mr Eddy and Mr Ruprecht, so you are noted and you will have your question as soon as soon as Mr Babinski clarifies.

Mr Babinski: I would just like the members of the committee also to be aware that the Ministry of Municipal Affairs imposes its own guidelines as to what makes this type of application acceptable or not. There is no requirement in law, for you to give us the exemption, that we be a registered charity. This is just a criterion that the Ministry of Municipal Affairs establishes for its acceptance of these types of requests.

1030

The second point I'd like to make is, the suggestion that this creates a precedent I think is a bit disingenuous if you look at our—we've relied on three bills that have already been passed. There have been three private members' bills in the Ottawa-Carleton region alone which we've used as precedents to draft this bill. So I fail to understand how we're creating a precedent. I think the precedent has been created before us.

Another point is that if as well there's no legal requirement put forward for the committee to say, "Well, we'll only approve particular types of activities," again with respect to public policy objectives, the care of pensioners, in my mind at least, takes priority over recreational purposes, which the parliamentary assistant

and the Ministry of Revenue have already stated that they've supported in the past.

That's it. Those are just things I wanted to—

The Chair: I'll turn then to Mr Eddy.

Mr Ron Eddy (Brant-Haldimand): Before asking the question, I just want to state that I don't think a legislative body should be afraid of making a precedent. If you didn't make decisions on applications and problems for fear of making a precedent, there'd never be any progress in the world, I don't expect.

I find myself in favour of the bill, because the homes and health centre operate on a non-profit basis. Indeed that's the key to it, and I note that you stated that it would put them on equal footing with other charitable and municipal institutions, if I can use that term, of like nature. I think that's awfully important.

I notice that there's not opposition from Ottawa-Carleton, nor the city of Ottawa. Certainly that's important from a local point of view.

The parliamentary assistant stated that the centre and the home are not a registered charity, and I wondered what that involved. Could that be pursued? Is that a difficult thing, to become a registered charity? Is that a possibility, if that indeed is the main impediment to the ministry agreeing to exemption of municipal taxation? Is that a possibility, or what are the implications of that? Do you wish to answer at this time?

Mr Babinski: My understanding is that the status of a charitable organization under the Canadian Income Tax Act is partly used and required when you have an organization that is seeking funds from private members of the public. The Sisters of Charity doesn't operate in that fashion and doesn't go and have fund-raising drives and give out tax receipts. That's not the manner in which they operate. They collect the funds internally or—

Mr Eddy: So it's not appropriate?

Mr Babinski: No, or required.

Mr Eddy: Or required. Thank you.

Could I ask the parliamentary assistant a further question then, or the legal counsel? Are there any centres, homes or institutions like this that are presently tax-exempt?

Mr Hayes: My understanding is that there aren't, and not for nursing homes. That's the information I've been given, that there are not others.

As a matter of fact, I guess one of the things, if we want to talk about the precedent being set here, it's estimated there are approximately another 200 such organizations that would be in the same situation.

Mr Grandmaître: Are they all non-profit?

Mr Hayes: Yes, that's correct that they are non-profit. But then at the same time, how is this committee to deal with the future of some of these organizations in

terms of whether they would become profit or non-profit, and they already would have that exemption? Like I say, there are approximately 200 other organizations that are similar to this. I'm not sure whether the committee—that's when I say there is a precedent—would actually want to deal with each one of those in the future, citing these exemptions.

Mr Babinski: I have a question for the parliamentary assistant. It is simply how he conceives that the queue will be forming outside the door of this room of other nursing homes making the same application. If it gives the committee any comfort, I certainly will be glad not to talk about this to anybody after I leave the room.

Mr Hayes: I'm sure nobody else will know about it.

Mr Babinski: The ministry of revenue is well acquainted with this application, but I really have my doubts that the 200 or so other nursing homes have sent representatives or are monitoring the situation and are on the edge of making an application.

Mr Tony Ruprecht (Parkdale): Mr Eddy's comments certainly made sense to me, and I was going to make part of that argument. In addition, Mr Grand-maître is here and he has given it a great deal of thought. That's why, obviously, we will support this bill.

But let me caution you. The parliamentary assistant indicates that there will be others, and I have no doubt personally that this is absolutely true. There will be others, because this will be looked at—however you like to phrase it—as a loophole, as a way out or as a way to gain.

I'm really tired of us having to sit here year after year looking at these specific applications. I really want to say to the ministry today, and I hope the parliamentary assistant takes notes on this, why in heaven's name is there no policy? We have made the request in this committee year after year, because people are coming for exemptions, whether they're multicultural organizations, cultural groups, community centres or whatever. They're coming, and this is ad hockery at its finest.

I'd like to request—I hope this committee will take it somewhat seriously—that later, or at whatever time the Chair deems right, this committee recommend that the ministry come up with a policy so that we don't have to sit through this again and again until it'll be too late. Perhaps what might happen later on, as I say, is that we've got to go back to these organizations and say: "Sorry, but you're no longer tax-exempt. You've got to pay taxes now." It's easier to do it from the front than go to the back door and make those changes later on. So please, I hope you take these comments seriously.

The Chair: Thank you, Mr Ruprecht. I will now turn to Mr Hansen.

Mr Hansen: I have to agree with Mr Ruprecht. This committee has sat and passed certain legislation for certain communities, certain organizations. The municipality agreed, the region agreed, we saw no one disagree, so at that point we went ahead.

I have a very hard time voting in favour of this bill. One reason is what the region of Ottawa-Carleton has said: "The regional municipality of Ottawa-Carleton adopted a policy with regards to all applications for tax exemption which provides that such exemptions only be provided by public provincial legislation utilizing uniform criteria on a province-wide basis."

I have to agree with the region of Ottawa-Carleton. If the province comes out with it across the province and everyone is treated exactly the same, then I can agree with it at that point.

They go on to item (c), on page 5 also. They "passed a resolution refusing the request of the Sisters of Charity for a tax exemption at a meeting of the council held on October 27, 1992."

Being a provincial member, we talk about the city and then we talk about the region, but we represent everyone in Ontario. When I see a letter come back from Ottawa-Carleton region supporting this, then I will vote in a different manner, but today I'm going to have to say I'm going to vote against this bill. Thank you.

1040

Mr David Johnson: We had a similar sort of situation in East York a few years ago, and our position was not to support the exemption from the assessment. We did so reluctantly, because I know that this organization, the Sisters of Charity at Ottawa, and the organization I'm talking about in East York, provide an excellent service and are worthy of every support that can be given. The problem is that when they don't pay taxes, everybody else pays the extra taxes, and there are a lot of poor people out there in apartments and homes, a lot of people on welfare etc, who are paying taxes who really can't afford to pay their own taxes, let alone pick up an extra burden, however well-deserving it is.

Still, I'm a little torn on this, because I respect the local municipality's decision. Normally, if the local municipality's gone through a process, a fair process, and determined that this property should be exempt, I would respect that, and I think we should give the most weight to the local municipality.

On the other hand, when I look at the possibility—I'd like a report on this. Is that possible, to get a report on the 200 other nursing homes? Can I get that in writing somehow, that there are 200 other similar situations? I think in the final analysis I'm going to agree with the parliamentary assistant on this, that we have to treat all of these properties in a fair and uniform fashion, and if we're prepared to exempt this one, then we have to be prepared to exempt all 200. I'm going to put a lot of

weight on that, so if that's what's being stated here this morning, I'm asking those who have stated that if they could give me the documentation so I could be content that I'm making my decision on a factual basis.

Mr Eddy: I just want a clarification on Mr Johnson's request. I believe he said "similar homes," so it's those homes and centres operating on a non-profit basis. Is that what we're talking about?

The Chair: I'd like to turn this to ministry staff, if you'd like to respond for the purposes of Hansard about what kind of organizations are being referred to by the parliamentary assistant. Do you have an idea? Are they nursing homes or are they some other form of organization? If you'd like to come back to the mike and reintroduce yourself, please.

Ms Coy: Lynette Coy from Municipal Affairs. I'll reconfirm that with the Ministry of Finance, because I got the information from it.

Mr Tom Melville: Including the nature of the organization.

Ms Coy: Yes, that's right.

Mr Eddy: It's this point of being on a non-profit basis that I'm particularly interested in.

Mr Melville: Perhaps that information could be available on a breakdown basis.

Mr Ruprecht: And when are they going to come up with a policy?

Mr Melville: There is a policy.

The Chair: Just for the information of the committee, the clerk has informed me that if this is something you would like to have Ms Coy confirm with the Ministry of Finance, this item could be stood down for 20 minutes until the appropriate phone calls are made to confirm the kinds of questions that have been raised on this particular issue and to substantiate your concern. I leave it in the hands of the committee, but you should be fully informed of what your rights are as a committee and the information that you might desire.

Mr David Johnson: My problem, Madam Chairman, since I guess I was the one who asked for it, is that I'm speaking to the private member's bill at 11 o'clock, so I won't be here in 20 minutes.

Mr Hayes: Madam Chair, to be realistic, I don't think we can get that information in 20 minutes. You've asked for that information and we will get it to you as soon as possible, but the information actually came from the Ministry of Finance. Twenty minutes: We'd love to, but we can't.

Mr Babinski: Do we know that these other organizations are also in a deficit position?

The Chair: Mr Babinski, I'm not aware if the Ministry of Finance at this point, without going through some research, can answer that question. Ms Coy, do

you have any information? She says no, at this point. Mr Eddy?

Mr Eddy: In view of the fact that the information isn't obtainable within 20 minutes, a very short space of time, I'm wondering if the matter could be deferred until the end of the meeting, as the last item after the other applications have been heard. In that way it can still be considered today before a decision is made and yet be included in this meeting.

Mrs Ellen MacKinnon (Lambton): With all due respect, I would like to suggest that this be deferred for a week, until we can get all this information together. To ask to have it done even today I think is just asking a bit too much of the committee to get it, read it, digest it and so on. I would like to suggest that it be deferred for a week. If you wish a motion, I can do that.

The Chair: If the committee would like to that, that is something that can be done.

Mrs MacKinnon: Would you like a motion?

The Chair: I would like a motion, if you would.

Mrs MacKinnon: I move that this particular application be deferred for one week.

The Chair: Any discussion on that particular motion?

Mr Grandmaître: Madam Chair, before the vote is taken, for one week to do what? This is what I'm interested in.

The Chair: I think, Mr Grandmaître, the issue around which this motion revolves is to clarify the situation of the 200 organizations which also would fall into a similar circumstance as the Sisters of Charity. Mr Babinski has raised the issue about their financial situation. Some research would have to be done. It would allow the ministry to prepare that research and to present it so that all of the committee members would be duly informed and be able to make an appropriate decision.

Mr Grandmaître: Thank you for making it clear. I just wanted everything on record. If we're going to stall it for a week—I want action.

Mr Hayes: I would like a clarification from Mr Johnson. I understood him to say, and he can correct me if I didn't hear it properly, that he was not supporting the bill; however, you'd still want that information, but that information wouldn't affect your decision today; you wanted that information to deal with future applicants on this particular issue. I may be wrong in that, but I thought that's what—

Mr David Johnson: In actual fact, what I was trying to convey was that based on that information, which I assume to be accurate, although I don't have the documentation, I would not be supporting the bill today. However, if it's the wish to have this deferred for a week to get that information, then that would make me

even happier and that would be wonderful. I assume, since it was said, that it's accurate information, but it would be nice to have it documented and deal with it in a week's time. If that's possible, then that's fine.

The Chair: There's now a motion on the floor, so people can obviously vote for or against.

Mr David Johnson: Sure, I'll support that.

Mr Derek Fletcher (Guelph): I'm not going to vote in favour of having this go for another week. These people have come here expecting a decision today. They've brought all the information that they deemed to be necessary and I think we owe it to these people to make a decision on the information they gave us. I cannot see what bearing the information that's being requested is going to have on making a decision on this. If we find out whether the other 200 organizations are deficit or non-deficit, who cares? We are here to make a decision based on what these people want and I think we should make that decision today.

The Chair: Seeing no further speakers on this particular issue, I will call a vote on the motion as put forward by Mrs MacKinnon. All those in favour of the motion, please indicate. All those opposed? The motion is lost.

The question on the bill; that's Bill Pr81. All those in favour of voting?

Interjections.

The Chair: Clause by clause.

Mr Grandmaître: No, no, of the bill.

The Chair: I'm informed that the appropriate procedure is go through clause by clause.

If I may start now, all those in favour of sections 1 through 6? All those against sections 1 through 6? That is defeated.

The bill will not be reported to the House.

I'm sorry, Mr Grandmaître and Mr Babinski.

1050

TOWNSHIP OF ALDBOROUGH AND VILLAGE OF RODNEY ACT, 1993

Consideration of Bill Pr87, An Act respecting the Township of Aldborough and the Village of Rodney.

The Chair: We would now call Mr North and the applicants from the communities of Aldborough and Rodney for Bill Pr87.

I'm just waiting for things to settle down a bit. All right, ladies and gentlemen. Mr North, I would ask you to begin. As the sponsor, you have the opportunity to make some opening remarks. I would ask you to introduce your guests and then it will be their turn to make some remarks.

Mr Peter North (Elgin): We appreciate the opportunity to speak this morning. We hope to be very brief. First of all, I would like to introduce John Fisher, the reeve of Rodney. Harry Mezenberg is the reeve of

Aldborough township and Murray Hennessey is with Hennessey, Bowsher and Associates in the city of St Thomas. He's counsel for the communities.

We have before you a petition to the Lieutenant Governor in Council to amalgamate the township of Aldborough and the village of Rodney as one municipality. It's received favourable support in both communities and therefore we bring it forward to the committee and ask the committee for its favourable support as well.

I really will keep my opening remarks brief and I will ask our counsel, Mr Hennessey, if he wishes any other comments.

Mr Murray Hennessey: The two municipalities in question have made an application or petition to the minister under the municipal boundaries adjustment act, or whatever that act is, for an order under section 14 permitting the amalgamation of the two municipalities. That, I understand, is proceeding as planned and as scheduled and with everybody's support.

The bill before you deals with a particular problem that arises under the Power Corporation Act and the Public Utilities Act. That is simply that under the Power Corporation Act, Ontario Hydro or/and the municipalities are permitted to create areas of service from time to time.

But there is a provision in the Power Corporation Act that no new area is to be created after the year 1951. I don't know what the magic is of 1951, but somehow no new area was to be created for a service area. At the moment, the village of Rodney, which has its own public utilities commission, is an area and it can be serviced because it's the total municipality. Upon amalgamation, however, the total municipality of Aldborough-Rodney will not be serviced by Hydro in the same fashion, whereas the act and the Public Utilities Act say that a municipality will provide the services for the total municipality.

In this particular case, if we were to continue with what we have now, and which is what we want, Ontario Hydro would sell energy directly to Rodney and it would continue to service the residents of Aldborough as it is doing now: directly, that is.

Normally, the right to continue with the existing circumstance would find its way into a bill wherein municipalities are amalgamating. Something in the legislation of an amalgamating act would direct its attention to this particular problem. But in view of the fact that these two municipalities hopefully are going to be amalgamated by virtue of an order under section 14 of the municipal boundaries act, this thing will not get direct attention or legislative attention.

That's the necessity for the private bill, and all we're asking in the private bill is that Ontario Hydro be permitted to continue to supply service to the former

village of Rodney and continue, as it is doing now, selling it to the utility, and to continue supplying to the residents of the former township of Aldborough as it is doing now, and nothing else changes. It does provide that the Rodney Public Utilities Commission will continue as a commission for the total amalgamated municipality. Those are my comments, Madam Chair.

The Chair: Thank you, Mr Hennessey. It is my job to ask if there are any other interested parties who would like to come forward to make a statement at this time. Seeing none, I will turn to Mr Fletcher and then Mr Hansen, who have indicated they'd like to ask some questions.

Mr Fletcher: Just a quick one: Everyone seems to be in agreement with this. Is that the way it is, no dissension?

Mr Hennessey: No dissension.

Mr Fletcher: That's good.

Interjection: This is a change.

Mr Fletcher: Yes, that is, and I'm very happy to be able to support this, Madam Chair.

The Chair: Mr Hansen.

Mr Hansen: This happened down in the area I represent. We had a bunch of small villages and it became the Lincoln public utilities. So this is a very simple bill and it just cleans up a lot of areas there, and I think I'll support this also. There's no objection.

Mr Hennessey: Thank you.

Mr Hansen: I also have an amendment when it comes time for an amendment, Madam Chair, a very small one.

The Chair: Okay. Mr Eddy.

Mr Eddy: First of all, my compliments to the councils of the two municipalities for negotiating an amalgamation of this type. I think there will be others of those, and so we're back to really needing policy and amendments to the Power Corporation Act to take care of this situation, and indeed situations which are probably more common in relation to the dissolution of police villages in the many counties of Ontario that are still operating. I agree, certainly, with this. This does take care of the situation entirely, this bill, as far as the hydro supply and the operation of the commission in the municipality are concerned?

Mr Hennessey: Yes, it does.

Mr Eddy: Thank you.

Mr Ruprecht: I just want to compliment Mr North. He thought about this, he looked at this bill, he made his decision and that's good enough for me. Thank you very much.

The Chair: It's always a delight to hear you, Mr Ruprecht. Mr Hayes, did you have a few comments to add as parliamentary assistant?

Mr Hayes: Yes. I want to compliment not only Mr North but the leaders of both of those municipalities for working so very closely together on this issue. The Ministry of Municipal Affairs supports this bill. It'll help speed along your amalgamation and be a success. We support it.

1100

The Chair: Okay. If there are no further questions or any other comments, I think we can move to clause-by-clause.

Mr Hansen: I've got an amendment coming up.

The Chair: Wait till we get to that section, all right?

Mr Hansen: Okay. I just want to make you aware: section 3.

The Chair: Thank you very much. We'll keep that in mind.

Shall sections 1 and 2 of the bill carry? Carried. We have section 3, so, Mr Hansen, would you like to read your amendment?

Mr Hansen: I'd like to make a motion to the committee here. I move that section 3 of the bill be amended by adding after "Rodney" in the sixth line, the word "public." So it would read "Rodney Public Utilities Commission."

The Chair: Very good. I think that clarifies the matter. Any discussion about that amendment? Seeing none, shall the section, as amended, carry? It's carried.

Sections 4 to 8: Shall they carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Mr North, you had some concerns prior to coming here that things would move quickly. I think you are pleased with what has happened. I thank you for your bringing this forward.

Mr North: Thank you, Madam Chair, on behalf of the communities that feel there is great import to this particular bill.

The Chair: Very good. Thank you, gentlemen.

Mr Hansen: Peter, this is the first bill that's passed today.

CITY OF OTTAWA ACT, 1993

Consideration of Bill Pr69, An Act respecting the City of Ottawa.

The Chair: All right, will Mr Eddy bring—I believe he's sponsoring this, along with the applicants, Mr Wallace, Ms Junop.

Mr Eddy: Madam Chair—

The Chair: You don't want to sit with your—

Mr Eddy: I was told that I could sit in my own seat.

The Chair: Very good, Mr Eddy. Heaven forbid that I should ask you to sit somewhere else.

Mr Eddy: It saves me running back and forth.

Mr Ruprecht: Is this controversial or not?

Mr Eddy: On behalf of Bob Chiarelli, MPP, it's my pleasure to introduce Mr Douglas Wallace, who is a director of corporate law and city solicitor for the city of Ottawa. It's regarding, of course, Bill Pr69, which is "to authorize the council of the corporation of the City of Ottawa to charge fees for the inspection and monitoring of properties in relation to maintenance and occupancy standards." Mr Wallace will make the presentation.

The Chair: Mr Wallace, perhaps you would like to make your remarks then.

Mr Douglas Wallace: I'm sure that all members of the committee will have read the purposes and objects of the legislation set out in the compendium, so I won't go through that at any length. Because this draft legislation met certain objections in its initial stages, which objections have been met by revisions to the bill in the drafting process, I should like to point out a couple of features of the bill as it is before you now, features, particularly, that met the original objections.

The bill, I believe, reflects an innovative approach by the municipality to recover some of the costs of its bylaw enforcement with respect to property standards through user fees. Rather than continuing with any increase in the general tax burden on all the citizens, the objective is that those properties that are problem properties, the owners of them should pay a higher price and a higher burden for enforcement of the bylaw than the general public.

The big change in the bill in its drafting was to change from a provision that it would apply to all properties to only properties that are found in default under our property standards bylaw, and I think that is very important to recognize, because it wasn't always clear.

Under the property standards bylaw that's authorized under the Planning Act, of course, an inspector goes out and inspects a property and there's a whole procedure there with a notice of violation, a right for an appearance before a property standards officer, an order is given, and there's an opportunity to appeal that order both before a property standards committee and then possibly before a court, if it is desired. The court, under the Planning Act, has the same powers as a property standards appeal committee and therefore could reverse the order if it saw fit, so there is this built-in court process.

What our legislation does is, starting at the conclusion of all of that—I'm talking about once a final order has been given under that process and the property standards officers go back and find that deficiencies still have not been corrected—then the costs of those inspections will be borne by the property owner. So it

is not of general application to all the taxpayers; it's to those who are in default. That's why we say what justifies the shift in the costs from the general taxpayer to the property owner.

There are other safeguards built in to the legislation. Besides the procedure under the Planning Act before the order becomes final, there is provision in the act that anyone affected must receive notice of the fees that will be imposed before the inspection is carried out, and they also receive notice. After the inspection's been carried out and fees incurred, they receive notice and have an opportunity to appeal. Any order with respect to the fees may be appealed again to the property standards appeal committee. So those safeguards have been built in. As I say, some of them did not appear in the original version of the bill.

We got objections from the public, which I'm sure have been distributed and are included in our supplementary compendium. Now I'm pleased to say that with the amendments that have taken place during the course of the drafting, we've been advised that some of the objections, certainly, have been withdrawn, now that it's clearly understood exactly what the purpose of the legislation is.

The Chair: Just for all members, in fact there is a series of letters that has been included in your package. As Mr Wallace has pointed out, there have been some objections raised, and they are there for your perusal and consultation. But I should also point out that there are some amendments, I've been informed, that will be taking place during our clause-by-clause discussions.

Was there something more that one of you would like to add?

Mr Wallace: Simply, Madam Chairman, I would indicate Cathy Junop is with me from the operating department, the manager of the property standards and site plan control branch of our planning and development department, and would be pleased to answer any questions if the committee has questions as to the procedure, particularly of giving the property standards orders before it gets to the stage of further inspections that we're talking about here.

The Chair: The procedure is that I have to ask if there are any other interested parties who would like to come forward who would at this point like to make some remarks for or against the proposed bill. Seeing none, I am going to turn to the parliamentary assistant, Mr Hayes, who is with the Ministry of Municipal Affairs, to make his comments.

1110

Mr Hayes: The Ministry of Municipal Affairs is not objecting to this bill, with the understanding that there will be an amendment to clear up things.

The Chair: Are there any other questions at this time on behalf of members?

Mr Hansen: You've got two Rons now, in case you thought Ron Eddy starts before—

The Chair: Not just that; he was sponsoring the bill. I think I'll turn to Mr Hansen first and then to Mr Eddy.

Mr Hansen: I'm going to ask a question. I missed the very first part, about the first five minutes. If you're looking at the city of Ottawa, in effect, it costs you money to have these inspections, so you're looking at a point of it as a basis of breaking even, then, with these inspections. Is this the idea of the bill? In other words, the wages that you're paying for these inspections will actually sort of flat-line. It wouldn't be a burden on the city of Ottawa.

Mr Wallace: That is generally the case, certainly with respect to, as you say, these inspections, these inspections being only after properties have been found in default. But for those inspections, yes, the fees are intended to be set to be basically cost recovery.

Mr Hansen: That's great. Okay, I can support that.

Mr Eddy: Just as a clarification regarding this matter of opposition to the bill, I believe you stated in your explanation that although there had been several objections, you've met most or all of those in the bill that's before us.

Mr Wallace: Yes, I believe that is the case. We're not aware—certainly nobody's appeared. There haven't been formal withdrawals of a number of individual objections, but in reading them, they appear to be based, by and large, on the concept that they think the fees are going to be charged for all property standards inspections. If that were the case, it would be different grounds and I think we would probably agree.

We think we've met those objections, even though they haven't officially withdrawn them. The largest rental property owner in the city is probably Minto Developments. You'll see there is a letter before you withdrawing its concerns and noting that it is now in favour of the bill, as presently drafted.

The Chair: Seeing no further questioners, I am going to move to the vote. Let us go section by section.

Shall sections 1 through 3 carry? Carried.

Mr Hansen: Madam Chair, I have a motion to be made before the committee on an amendment.

I move that subsection 4(6) of the bill be struck out and the following substituted:

"Recovery of fees

"(6) The fees payable may be recovered by the corporation in like manner as municipal taxes."

Mr Ruprecht: Is there discussion on this?

The Chair: On that particular amendment, yes.

Mr Ruprecht: I'm wondering if I may be permitted to ask this question. I have a quick question to Mr Hansen and, if he is unable to answer, probably to counsel. Does this refer to if the owner does not comply

with the request by the inspector? Do those fees then have to be paid immediately or will that person, in this case the owner, have a chance to comply? At what point do the fees click in?

Mr Melville: Perhaps Mr Wallace could answer that question.

Mr Wallace: There is provision in the bill for the owner to receive notice that fees will be charged if there is an inspection that reveals the deficiency. Then there would be the inspection revealing a continuing deficiency.

Mr Ruprecht: So there's a fee just for the inspection?

Mr Wallace: It is proposed that there would be a fee for the inspection which would only apply if the inspection revealed a deficiency or a failure to correct a deficiency under a property standards bylaw order.

Mr Ruprecht: That means then that this would only be done on the second inspection, because the first inspection would not be the laying of a charge, necessarily, but identifying the problem?

Mr Wallace: At least second and in practice probably third or fourth before it ever gets to there being a final order under the property standards bylaw which there can be a failure to comply with. So you've had those inspections before this even begins.

Mr Ruprecht: Without a fee?

Mr Wallace: That's right.

Mr Ruprecht: Okay. Thank you very much.

The Chair: Thank you, Mr Ruprecht. Any further questions on that amendment? Seeing none, shall the amendment carry? Carried.

Shall section 4, as amended, carry? Carried.

Shall sections 5 through 7 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House as amended? Agreed.

Thank you, Mr Wallace, Ms Junop and Mr Eddy, for your competent presentation, and thank you for coming today.

Mr Wallace: Thank you, Madam Chairman and members of the committee.

TOWN OF RICHMOND HILL ACT, 1993

Consideration of Bill Pr77, An Act respecting the Town of Richmond Hill.

The Chair: Mr Eddy, have you pulled together your next presentation for Bill Pr77? It's Miss MacLean. Mr Eddy, as sponsor, would you like to introduce the applicants and then make your opening remarks.

Mr Eddy: Yes, Madam Chair. It's my pleasure, on behalf of Greg Sorbara, MPP, to introduce Virginia MacLean of Cassels, Brock and Blackwell, barristers

and solicitors, who will present and speak to the bill to enable the town of Richmond Hill to regulate outdoor lighting in order to provide an appropriate environment for the use of the University of Toronto's David Dunlap Observatory located in the town. Miss MacLean will introduce the other members of the deputation.

The Chair: Thank you, Mr Eddy. Miss MacLean, if you would do so.

Miss Virginia MacLean: Yes, Madam Chairman. I'd like to thank Mr Eddy for introducing the bill. Mr Sorbara conveyed his regrets to us just prior to the meeting and we're very grateful that Mr Eddy was available to sponsor the bill.

With me today to my immediate left is Dr Daniel Lang, who is the assistant vice-president, planning, and university registrar for the University of Toronto. Next to Dr Lang is Mary Braun of Meighen, Demers, who is counsel for the town of Richmond Hill, and to her left is Dr Bolton, professor and associate director, David Dunlap Observatory, University of Toronto.

This is a very unusual piece of legislation as a result of the town of Richmond Hill having within its boundaries a very unusual feature, namely the David Dunlap Observatory. As the compendium background indicates, this observatory was donated to the University of Toronto in 1929 and was opened in 1935, and at that time contained the second-largest optical telescope in the world. The municipality of Richmond Hill was, needless to say, very small at the time and it was considered to be an ideal location for such a facility.

It is an important research and training facility for the department of astronomy for the University of Toronto and is used for public education programs run by the department with the assistance of the Royal Astronomical Society of Canada.

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As Dr Bolton can attest, the big issue is urban glow increase. As municipalities grow, you have more and more urban glow. There are a number of observatories in the United States that have experienced similar problems.

In about 1975 Dr Bolton expressed his concerns about urban glow and started to have conversations with the town of Richmond Hill about trying to reduce that urban glow. As a result of Dr Bolton's efforts and the cooperation of the town of Richmond Hill, a system was instigated in 1985 whereby new projects for development were put through a process of having a lighting plan approved by the municipality prior to the approval of new planned subdivisions or new development within the municipality. Where a municipal permit was required for building a structure, there was a process whereby Dr Bolton, principally, reviewed lighting plans and approved the lighting.

This process has worked very effectively; Dr Bolton

can advise you as to the effect of the process. But it has now got to the point that the informal process can no longer continue because it's very time-consuming as far as the university is concerned. They would like the municipality to run the process itself.

What the proposed bill will do is enable the municipality to pass a bylaw whereby the municipality will be able to regulate the type of lighting. We're only talking about outdoor light fixtures. The municipality will basically put into place the process that is now being used and it will be officially put into a bylaw that municipal staff can administer. That in essence is the purpose of the legislation for which we seek your support.

The Chair: Are there any other members of the delegation today who want to make any remarks?

Ms Mary Braun: I'd simply like to say that the town of Richmond Hill is fully in support of this private bill and has passed a resolution indicating its willingness to pass a light pollution bylaw, subject to this private legislation being approved. There has been this cooperative informal process and policy in effect. It has been very effective and the town is in agreement with the observatory that it would be appropriate to actually have a bylaw in place at this time and to have this review process come into the town and be part of the usual development review process. So the town is fully in support.

Interjection.

The Chair: Excuse me, Mr Perruzza, we do run a list; I'll put you down. Dr Bolton, did you have a comment?

Dr Tom Bolton: Yes, I'd like to make a few comments. First, I think it's important to make clear to you that we are not talking about an attempt here to roll back the clock; we're talking about an attempt to maintain status quo as the town grows. We realize that lights are necessary and that we're going to have to live with those. We're trying to establish controls that actually improve lighting. We also are quite convinced, and the lighting industry tells us, that many of the measures we put in will aid in energy conservation.

A second point that I think is worth making is that not only is the present system a burden on the observatory, but it also provides an additional burden on the applicant, because there's one more stop they have to make to get their approvals. By transferring this back to the town, we'll decrease the burden on the applicant to some degree.

The Chair: I have at this point two members who wish to pose questions. That's Mr Hansen and Mr Perruzza. Mr Hansen, would you like to begin?

Mr Hansen: I'd just like to ask the question, and maybe it doesn't have a whole lot to do with the bill: You used the words "light pollution." Can you tell me

in some ways how you're going to address the term "light pollution," Dr Bolton?

Dr Bolton: I like to think of light pollution as being similar to the definition of a weed, which is a flower growing where you don't want it. Light pollution, in the context of astronomy, is light that goes upwards to the sky rather than going down to the ground where it will serve a purpose, to illuminate surfaces, provide security, whatever. Light that goes directly up to the sky reflects off dust, water vapour and the atmosphere and comes back down to the ground as a diffuse glow which obscures other objects, the stars, to some degree.

That's why if you look up at the sky in downtown Toronto you don't see that many stars. If you go out to cottage country and look up, there are many, many more stars. For a telescope, it's the same story. It screens out light. It comes in and contributes light, along with the starlight, and it's difficult for us to separate the two contributions of light. It hampers our research.

Mr Hansen: The area of Richmond Hill is sort of an urban-rural area now. I come from Lincoln. What you're classifying as light pollution—we have a lot of that in our area because of the greenhouses down there. Are there greenhouses in the area which would have to adapt if they're going in or, if they're there already, would have to wind up complying with the new bylaw?

Dr Bolton: This legislation does not affect greenhouses. It only applies to exterior lighting; it does not affect interior lighting.

Mr Hansen: Greenhouses are made out of glass, so it becomes an exterior light problem. That's why I'm saying, because if you drive in Lincoln, you can tell where the greenhouses are; it exposes all the sky.

Dr Bolton: I am acutely aware of that. We have greenhouses in fact on the building next to our telescopes on campus. That's another story. However, the nearest greenhouses that are a severe light pollution problem to our observatory lie outside the town of Richmond Hill. I would certainly, if there were greenhouses proposed in the area around us, take steps to deal with those on an ad hoc basis. They are not covered by this bylaw. I don't know any way to write a bylaw that would catch those and not catch other things we probably wouldn't want to affect.

Mr Hansen: It's just a concern. That's the biggest light pollution item that I know down in our area. Especially in rural areas you can see the whole sky lit up.

Dr Bolton: In our area, the two biggest sources of light pollution are automobile dealerships and athletic fields.

Mr Anthony Perruzza (Downsview): I'll pass.

The Chair: Are there any other questions on behalf of members? Very good. Are we then ready for the vote?

Mr Hayes: I have comments. What about me?

The Chair: I'm sorry. We're just moving along so well, Mr Hayes. Not that you don't have constructive comments to make.

Mr Hayes: I was really feeling hurt.

The Chair: Mr Hayes, if you would like to make some comments on behalf of the Ministry of Municipal Affairs.

Mr Hayes: The Ministry of Municipal Affairs does not object to this bill, pending the passing of certain amendments that are going to be introduced.

The Chair: I will now move to clause—oh, I had another oversight, which is, are there any other interested parties who would like to make any comments? Seeing none, we will move to clause-by-clause.

Shall sections 1 through 3 carry? Carried.

Mr Eddy, do you have something to say about section 4?

Mr Eddy: Yes. I move that section 4 of the bill be amended by striking out "subsection 1(3)" in the seventh and eighth lines and substituting "subsection 1(4)."

The Chair: Any discussion on that amendment? Shall the amendment carry? Carried.

Shall section 4, as amended, carry? Carried.

Shall sections 5 through 7 carry? Carried.

1130

Mr Eddy: I move that section 8 of the bill be struck out and the following substituted:

"Warrant for entry and search

"8(1) A justice of the peace may at any time issue a warrant authorizing an inspector named in the warrant to enter and search any land, building or structure if the justice of the peace is satisfied by information on oath that there is reasonable ground to believe that,

"(a) an offence under this act has been committed;

"(b) the entry into and search of the land, building or structure will afford evidence relevant to the commission of the offence.

"Seizure

"(2) In a warrant, the justice of the peace may authorize the person named in the warrant to seize any thing there is reasonable ground to believe will afford evidence relevant to the commission of the offence.

"Same

"(3) Anyone who seizes something under a warrant shall,

"(a) give a receipt for the thing seized to the person from whom it was seized; and

"(b) bring the thing seized before the justice of the peace issuing the warrant or another justice to be dealt with according to law."

The Chair: Any discussion on the amendment? Seeing none, shall the amendment carry? Shall section 8, as amended, carry? Carried.

Section 9: Do you have an amendment, Mr Eddy?

Mr Eddy: I move that section 9 of the bill be struck out and the following substituted:

"Application of Provincial Offences Act

"9. Sections 159 and 160 of the Provincial Offences Act apply with necessary modifications in respect of any thing seized under section 8."

The Chair: Is there any discussion on the amendment? Shall the amendment carry? Shall section 9, as amended, carry? Carried.

Section 10: Mr Eddy.

Mr Eddy: I move that section 10 of the bill be struck out and the following substituted:

"Time for execution

"10. A warrant issued under this act may be executed only between 6 am and 9 pm unless it provides otherwise."

The Chair: Any discussion on the amendment? Those in favour of the amendment? Shall section 10, as amended, carry? Carried.

Section 11: Shall section 11 carry? Carried.

Section 12: I have been informed that it is out—

Interjection: Let him read it first.

The Chair: Sorry. Go right ahead, Mr Eddy.

Mr Eddy: I move that section 12 of the bill be struck out.

The Chair: I have been informed that that is in fact out of order, that members either vote for or against that particular section.

Shall section 12 carry?

Mrs MacKinnon: What did you say? I'm sorry, Madam Chair, I didn't hear what you said.

The Chair: You cannot just simply strike out with no replacement, so that the amendment to section 12 is out of order. The way to remove it from the bill would be to vote against it. So you have a choice to make: you would either vote for section 12 or against section 12. So shall section 12 carry?

Interjections: No.

The Chair: Thank you. Shall section 13 carry? Carried.

Shall section 14 carry? Carried.

Shall the preamble carry? Shall the bill carry? Shall I report the bill, as amended, to the House? Agreed.

Thank you, ladies and gentlemen, for your attention and participation.

The committee adjourned at 1136.

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STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

- ***Chair / Présidente:** Haeck, Christel (St Catharines-Brock ND)
- ***Vice-Chair / Vice-Présidente:** MacKinnon, Ellen (Lambton ND)
- *Eddy, Ron (Brant-Haldimand L)
- *Fletcher, Derek (Guelph ND)
- *Hansen, Ron (Lincoln ND)
- *Hayes, Pat (Essex-Kent ND)
- *Johnson, David (Don Mills PC)
- *Jordan, Leo (Lanark-Renfrew PC)
- *Mills, Gordon (Durham East/-Est ND)
- *O'Neil, Hugh P. (Quinte L)
- *Perruzza, Anthony (Downsview ND)
- *Ruprecht, Tony (Parkdale L)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Wilson, Gary (Kingston and The Islands/Kingston et Les Îles ND) for Mr Mills

Also taking part / Autres participants et participantes:

Coy, Lynette, economist, municipal finance branch, Ministry of Municipal Affairs
Hayes, Pat, parliamentary assistant to the Minister of Municipal Affairs
Melville, Tom, legal counsel, Ministry of Municipal Affairs

Clerk / Greffière: Pajeska, Donna

Staff / Personnel: Klein, Susan, legislative counsel

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Troisième session, 35^e législature

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Wednesday 16 June 1993

Journal des débats (Hansard)

Mercredi 16 juin 1993

Standing committee on
regulations and private bills

Comité permanent des
règlements et des projets
de loi privés

Chair: Christel Haeck
Clerk: Donna Pajeska

Présidente : Christel Haeck
Greffière : Donna Pajeska



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STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 16 June 1993

The committee met at 0936 in committee room 1.

The Chair (Ms Christel Haeck): I'd like to call the meeting to order.

Mr Ron Hansen (Lincoln): The committee.

The Chair: Well, it says "meeting." I have a cheat sheet here and it says "meeting," so I'm reading it as it is. But it is the committee and I welcome you all. Ellen, I would ask you to actually stand down for just a very few minutes. We're waiting for the legislative counsel, who has the amendments for your particular bill—

Mrs Ellen MacKinnon (Lambton): Oh, all right.

The Chair: —to actually get here. So if I could ask you and Wayne to move to the side.

KOREAN CANADIAN CULTURAL
ASSOCIATION ACT, 1993

Consideration of Bill Pr5, An Act respecting the Korean Canadian Cultural Association.

The Chair: We will start with Pr17, An Act respecting the Korean Canadian Cultural Association, if Mr Johnson and the applicants for the bill could please take their places.

Interjection: You said "Pr17." It's Pr5.

The Chair: Oh, sorry. Let me correct that. It's Pr5.

Mr David Johnson (Don Mills): Okay, are you all set, Madam Chairman?

The Chair: Let me just—okay. So, Mr Johnson, if you would be so kind.

Mr David Johnson: This is Bill Pr5, the Korean—

The Chair: Dave, if you would then just introduce the people who are with you as the applicants.

Mr David Johnson: Yes, that's what I'm about to do.

The Chair: Thank you very much.

Mr David Johnson: They're from the Korean Canadian Cultural Association. On my right is Mr Val Ornoy, who is the legal counsel from Otis and Korman, barristers and solicitors, and on his right is the former president of the Korean Canadian Cultural Association, Mr Sam Hahn. They've applied for special legislation to exempt certain lands and premises from taxation for municipal and school purposes.

The Chair: Thank you. Do you have any other opening remarks to make at this time?

Mr David Johnson: No, I think that covers my opening remarks, but I know that Mr Hahn and Mr Ornoy would be prepared to expand or answer any questions.

The Chair: Then if the applicants would please

make their presentation. So either Mr Hahn or Mr Ornoy, if you would make your presentation.

Mr Samuel Hahn: Good morning, Chair. My name is Sam Hahn. I'm representing the Korean Canadian Cultural Association. The association has been in operation for the past 20 years. Our major function is to provide family and social services to the people who are living in the community. The community centre is located in North York. In our tabulation, you will see the activities and functions of the association. We do operate the community centre and that's the focal point of today's meeting. The services of our community centre are open to all the general public, and the facilities, again, are open to the general public. It's used on a first come, first served basis.

Briefly, we were struggling to get this exemption passed for about 10 years. The fact is, the other community centres in North York, where we are located, I think have been exempted from the property tax for 10 or 15 years, such as the Latvian, which is a few steps away from our centre, and we have another few minutes' walk leading to the Japanese centre. Again, there's the Columbus Centre for the Italian community and so on, so there are a lot of community centres in North York, but unfortunately somehow we were not lucky to get this one being done 10 years ago. I tried for the past six years to get this done. The story's long, but I hope today it will be done with your support.

The Chair: Mr Ornoy, did you have any other comments to make?

Mr Val Ornoy: In general, other than the brief description that you heard regarding the facilities and the functions of the centre as well, basically what we're trying to do here is not new or ground-breaking in any sense. I'm sure you're aware of all the precedents that we have before us, most recently, the Bikur Cholim bill which was passed very recently.

The whole idea is that there is an association which operates the centre. This centre is open to the public. There are many, many services which are provided, and I believe in the compendium there's a full list of services, which I'm sure you'll see are quite wide-ranging in their effect. There are many other areas of the community and many other groups in the community that make full use of the facilities on a regular basis, and I think that's something that has to be considered as well.

As far as the various criteria that were put forth in the consideration of previous bills of this nature, basically, like Mr Hahn said, the centre has been around

for roughly 20 years. They are a registered charity, which is a main factor here as well. The premises which we're talking about at 20 Mobile Drive are wholly owned and used solely for the purpose of the centre, and also a main consideration here is the fact that North York city council has passed a resolution accepting this proposal and supporting the exemption as well. So I think those are three criteria that need to be considered carefully.

The Chair: Thank you. I was just slightly distracted there by some comments.

Mr Ornoy: Should I repeat any of what I—

The Chair: No, that's fine. In fact, since I really can't ask you any questions, it's much more important that you make your comments for the members sitting here and that they're able to ask questions based on your comments.

I would at this point turn to the parliamentary assistant for Municipal Affairs, Mr Hayes, to ask if he has any comments.

Mr Pat Hayes (Essex-Kent): The Ministry of Municipal Affairs does not object to this application. However, we feel that the retroactivity of the application should begin in January 1993 and not go back further. That's our recommendation.

Mr Ornoy: If I may comment on that, the original application that the association began was back in 1991. At that point there was a certain legislative policy in effect at that time which we did comply with, and we did follow the precedents that were in effect at that time. However, there were policy changes made during that year and basically our application at that point wasn't in effect once these policy changes were made.

We subsequently have revised it, following the current precedents, and basically what has happened is that through a whole series of political manoeuvring and political adjustment, this process has taken the better part of two years. But we had no control over any of that process. We were just basically following the steps that we were required to follow at the time that we were required to follow them. So I think we have followed and done everything we were supposed to do at the time that we were supposed to do it, and we've complied with every step in the proper manner. However, as I mentioned, there were things that took place that were out of our control and those extended the time period.

Even though we started this application back in 1991, we're willing to sort of come to a median point in this particular point and go back to January 1992 and that's our request, that even though we started the application in 1991 the retroactivity period start in January 1992.

The Chair: Thank you. I know that the members themselves will have some questions, and I see that there's at least one question coming forward. I would at this point, however, ask if there are any other interested

parties who would like to make any comments on the bill that is before us. Seeing none, I will turn to Mr Eddy.

Mr Ron Eddy (Brant-Haldimand): My question was regarding section 3 and the retroactivity. What is the position of the council of North York on the matter of retroactivity to January 1, 1992?

Mr Ornoy: As far as I know, there was no opposition. They basically had passed the resolution, the original resolution approving this exemption, back in 1990. So my understanding is that since the resolution was passed in 1990, which was just around the time when we originally started our application, there would be no opposition from North York. Since they approved the application in principle and they were prepared to exempt us back in 1990, my understanding is there wouldn't be any opposition from North York.

The Chair: Mr Eddy, did you want to continue?

Mr Eddy: Is there anything on file from the council of North York regarding this matter?

The Chair: Mr Hayes, do you have any comments?

Mr Eddy: It's specifically on the matter of the retroactivity again.

Mr Hayes: North York has passed a resolution of support, yes.

Mr Eddy: Thank you.

Mrs MacKinnon: My concern also was in regard to section 3, the retroactivity of it. January 1992 for retroactivity seems a bit excessive to me. I didn't catch what Mr Hayes said in regard to the position of North York.

The Chair: Mr Hayes, could you repeat that?

Mr Hayes: Yes. North York has passed a resolution in support of this application.

Mrs MacKinnon: Thank you. Is that binding on us?

Mr Hayes: No, not necessarily. It's just saying that they do support it, that's all.

Mrs MacKinnon: The retroactivity?

Mr Hayes: They support the request in the bill.

Mrs MacKinnon: Okay. Thanks.

Mr Hansen: I didn't read in here—maybe I skipped over—what the amount of taxes would be involved in this. I see on—I don't think they're numbered—page 3, which shows the financial statements for 1991 showing a loss of \$26,222. I imagine why you're applying for this is that you're in a losing position with the services that you are giving to the community.

Mr Ornoy: Absolutely.

Mr Hansen: Maybe you can explain that to the members a little bit.

Mr Ornoy: Roughly, we stand in a position where the taxes, I believe, are about \$11,000 a year. Basically, for the last couple of years—I mean, I don't have to

explain to anybody what the recession has been like for people—the association and the membership in general relied only on public funding, on donations, fund-raising, things like that.

At any time when you undergo a recession as severe as we've had for the last three years, you're going to see a dramatic drop in the contributions that the association gets. That's understandable, and that has been monitored and it's been a very dramatic decrease. As a result, there have been cutbacks on services already, which the association was simply unable to avoid. Having to pay these taxes now is simply going to mean that a further reduction in services is going to be inevitable.

0950

As it is right now, most of the people who are working at the centre are volunteers, but there are many, many services which require funds, and these services have been cut back already. They've been cut back a lot more than anybody would have liked, but up to now we've had simply no choice because the reduction in the funding that we've received has been quite dramatic over the last two to three years. So having this extra burden of these taxes imposed is going to definitely mean a very substantial decrease in the services that remain.

Mr Hansen: So the services that you're providing actually can't be bought for that kind of price by the municipality with the 440 volunteers that are working in the programs. So it is a cost saving, in the long run, for the municipality.

Mr Ornoy: Oh, absolutely.

Mr Hansen: I'll support this bill.

The Chair: Any further questions from the members? Seeing none, I'd like to ask the members if they are ready to vote.

Mr Eddy: Ready.

The Chair: Very good. Shall sections 1 through 5 carry? Carried.

Shall the schedule carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Mr Hansen: I'd like to make a motion, Madam Chair.

I move that the committee recommend that the fees, and the actual cost of printing at all stages and in the annual statutes, be remitted on Bill Pr5, An Act respecting the Korean Canadian Cultural Association.

The Chair: Any discussion on that motion? All those in favour, please signify. Motion carried.

Mr Johnson, before you go, if you have another one you want to do.

AGA MING PROPERTY OWNERS ASSOCIATION ACT, 1993

Consideration of Bill Pr17, An Act to revive Aga Ming Property Owners Association.

Mr David Johnson: This is Bill Pr17, and I am joined by Mr Ian Mead, who is the vice-president of the Aga Ming Property Owners Association.

The comments that I would make I guess are contained on the inside of the bill. They've applied for special legislation to revive the Aga Ming Property Owners Association. The corporation was dissolved under the Corporations Act on September 8, 1982, for default in complying with the Corporations Information Act.

I believe there was a solicitor involved at the time and the papers went into a black hole, I think—

The Chair: This has been known to happen before.

Mr David Johnson: —as Mr Mead has indicated. Otherwise they would certainly have kept up, but there was just a lack of information flowing to them.

With those comments, Mr Mead may wish to embellish.

Mr Ian Mead: Just to give you a bit of background on the association, it all started back in 1970 when a group of us purchased some properties on a peninsula on Crane Lake. At that time, it was intended that there would be a road to the peninsula and that we would have access via road.

A few years later it was established by the developer that the road would not be forthcoming, and he had a chunk of property and a dockage area that he had put up for our use in the interim. We approached the developer and asked him if we could buy it or whatever so that we would have continued, close access to our properties on the peninsula. He agreed basically to give us the properties and the dockage but it had to go into an association, hence the formation of Aga Ming association.

We thereafter took over the maintenance of the area and the paying of the taxes, insurance etc. However, we were, I'd have to say, very naïve and very ignorant of the process of what has to happen with an association on a year-to-year basis. Hence, we had a lawyer at the time who really got out of the lawyering business and into some speculative real estate business. All the documentation, we understand, went to the lawyer and, as I said, into some black hole, obviously. Again, we were ignorant and naïve and we didn't even know that we had to even worry about this thing.

The company was dissolved in 1982, but we really didn't know about this until a couple of years ago.

I guess it was getting together with the concerned parties on the lake last summer and creating enough anxiety and interest that we need to get this thing settled and put it back in place.

The Chair: I think the members who are part of this committee have heard similar stories before and undoubtedly will commiserate but, at the same time, they may also have some questions, so I will ask if there are any questions from the members at this point.

Mr Hansen: I would like to hear from the parliamentary assistant first.

The Chair: Mr Hayes, do you have any comments?

Mr Hayes: I'm very pleased you'd like to hear from me. The Ministry of Municipal Affairs does not have any objections to Bill Pr17.

The Chair: Are there any other interested parties who may be in the audience who would like to come forward to express their concerns or support with regard to Pr17?

Mr Hansen: I would like to move that we get on with this bill. It seems to be that it's something that has just been overlooked by the association—and we've had other presenters also—and not to take too much time with this committee so we can get this bill passed.

The Chair: I believe that we can say that the members are prepared to vote on Pr17.

All those in favour of clauses 1 through 3, please indicate. Agreed.

Shall the preamble carry? Agreed.

Shall the bill carry? Agreed.

Shall I report the bill to the House? Agreed.

Thanks very much to you all. It was a lot of hard work. Thank you very much, Mr Mead, for your contribution, and Mr Johnson.

P.O.I.N.T. INCORPORATED ACT, 1993

Consideration of Bill Pr37, An Act to revive P.O.I.N.T. Incorporated.

The Chair: We would like to call forward Ms Poole and Mr Hodgson, please. Dianne, if you would introduce the applicant.

Ms Dianne Poole (Eglinton): I am pleased to introduce to committee members John Hodgson from the firm of Blake Cassels.

The Chair: Very good. Any opening comments from you, and then Mr Hodgson?

Ms Poole: I will be very brief but I would like to familiarize committee members with P.O.I.N.T. It is an organization in North Toronto called People and Organizations in North Toronto. Their charitable endeavours have ensured that many services for our community in North Toronto would be there.

For instance, they were the motivators and the inspirers and the workers who ensured we had a new recreational community centre, a new health station which serves seniors, adolescents and women. They've been involved in social housing projects and they are truly a fine organization in north Toronto that has

served our community well.

Being a community organization, it is of course primarily staffed by volunteers. That being the case, they aren't always cognizant of some of the filings that must be required to keep their incorporated charter. I believe Mr Hodgson would have a few comments.

Mr John Hodgson: P.O.I.N.T. was incorporated in 1974 and, as Mrs Poole has indicated, it has been a very effective force of volunteers continuously right through this, including now. Unfortunately, they did not spend sufficient time looking after their change of address and the notices from the department did not reach them. So when I courteously provided a search of their status, we put the board into somewhat of a shock to discover that they had not existed corporately for something like 12 years.

It was of course an involuntary mistake, and what they are doing, what they have established themselves as doing in the community, is extremely significant, and I'm happy to say that the public trustee, in my understanding, agrees with this application.

1000

The Chair: Very good. Are there any other interested parties who are in the audience who would like to come forward and either support or object to Pr37 going forward? Seeing none, I would turn to the parliamentary—

Mr Hansen: This is the same bill, in a sense, as the last one, which Mr Johnson put forward. I think we can save the time of the committee and the applicants here, if the parliamentary assistant will have his say first.

Mr Hayes: Well, I thought you'd like to hear from me.

Mr Hansen: If he agrees, I think we can get on with it.

The Chair: I was just going to turn to him, Mr Hansen. Mr Hayes, do you have any words here?

Mr Hayes: I don't know what you'd do without Mr Hansen's assistance, but that's okay.

The Chair: He's an asset to the committee.

Mr Hayes: He is. The Ministry of Municipal Affairs has no objections to this application.

The Chair: Do the members have any other questions? No. So let us move to the vote. All those in favour of the vote? Yes, you're in favour of the vote.

All those in favour of sections 1 through 3 carrying, please signify. Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Mr Eddy: I move that the committee recommend that the fees, and the actual costs of printing at all stages and in the annual statutes, be remitted on Bill

Pr37, An Act to revive P.O.I.N.T. Incorporated.

The Chair: Any discussion on that motion? Seeing none, all those in favour of the motion? The motion is carried.

Ms Poole: I thank the committee very much for your indulgence and for ensuring that we continue to have the fine services of P.O.I.N.T. in north Toronto.

The Chair: Thank you, Ms Poole and Mr Hodgson. Ms Witmer and Mr Panabaker, please.

KITCHENER-WATERLOO FOUNDATION ACT, 1993

Consideration of Bill Pr14, An Act respecting The Kitchener and Waterloo Community Foundation.

Mrs Elizabeth Witmer (Waterloo North): Madam Chair, it's a pleasure to be here this morning and introduce to you the president of the Kitchener and Waterloo Community Foundation, Mr John Panabaker. We are introducing today An Act respecting The Kitchener and Waterloo Community Foundation.

The Chair: Any further comments other than introducing your guest?

Mrs Witmer: I will just make a few other comments. I would just like to indicate to you that this is an independent organization, and the foundation over the past number of years has made an outstanding contribution to improving the quality of life for the individuals in my community. Money is put into a fund and it is redistributed in grants to various cultural, educational and community and social organizations. I can certainly tell you that there have been many, many groups that have benefited from the money that has been made available in the foundation.

The Chair: Thank you, Ms Witmer. Mr Panabaker, if you would make some comments.

Mr John Panabaker: Thank you, Madam Chair. For the information of members of the committee, I might just briefly outline what has been accomplished by the foundation.

We were established under an act of this Legislature in 1984, which was amended I believe in 1988, as a non-profit organization to build a permanent fund of capital, the income from which could be distributed in grants flexibly to the communities of Kitchener and Waterloo and the surrounding areas.

The foundation started with just over \$100,000 and its assets are now in the order of \$2.7 million. Last year, through gifts and bequests, we raised just under \$500,000 dollars and distributed about \$188,000 in grants to various community organizations.

Over the last number of years, we have discovered some technical and administrative problems that have made our act a little difficult to work with and the bill that you have before you today is an attempt to rectify those administrative problems.

I would be happy, Madam Chair, to respond to any

questions the members of the committee have.

The Chair: I know that the members will be anxious to ask any questions, but I'm first going to ask if there is anyone in the audience who has any concerns or objections to this bill and if they'd like to raise them at this point. Seeing none, I will first of all turn to the parliamentary assistant. Any comments from Municipal Affairs on this, Mr Hayes?

Mr Hayes: The Ministry of Municipal Affairs does not have any objections to this bill.

The Chair: Are there any questions from the members of the committee at this point?

Mr Mike Cooper (Kitchener-Wilmot): Just a brief comment. I know that quite a while ago Ms Witmer brought up a resolution in the House to get the signage on Highway 401 changed to "Kitchener and Waterloo" in recognition of what's happening in our community: Our labour council is now the Waterloo Regional Labour Council and, as was mentioned in the compendium, the chamber of commerce is now the Kitchener and Waterloo Chamber of Commerce. These are the things that are happening in the community, and it's good to see that somebody's on top of it and bringing legislation forward at an appropriate time rather than 10 years later. I commend you for the work you've done in the community and for keeping on top of your legislation.

Mr Panabaker: Thank you. The legislation was becoming very difficult to work with, as you can appreciate.

Mr Eddy: As a member also representing part of the region of Waterloo, I must also add my commendation to the applicants and acknowledge their excellent good work.

The Chair: Mr Hansen, did you have a few comments?

Mr Hansen: I was just going to say that the composition of the nominating committee is the mayor of Kitchener, the mayor of Waterloo, the president of the chamber of commerce—it looks like you've involved all the people in Kitchener-Waterloo, so I have no problem supporting this bill.

Mr David Johnson: It only raises the question that we consider adding the local member of provincial Parliament.

Mr Eddy: The problem is that there are four.

The Chair: Yes, they would have to bring a few people on board. Maybe Mr Panabaker and his group can take back and give it due consideration for the next round of amendments.

Seeing the lack of questions and definitely a lot of laudatory remarks, which are probably well earned, I would suggest that we are prepared to vote. Any objection to continuing with the vote?

Seeing none, I would ask if the members are in agreement that sections 1 through 4 carry. Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Mr David Johnson: I have a motion that the committee recommend that the fees and the extra cost of printing at all stages and in the annual statutes be remitted on Bill 14, An Act respecting the Kitchener and Waterloo Community Foundation.

The Chair: Any comments or questions on that motion? Seeing none, all those in favour of the motion? The motion is carried.

Mr Panabaker: Thank you very much.

CRUICKSHANK ELDERLY PERSONS
CENTRE ACT, 1993

Consideration of Bill Pr88, An Act respecting the Cruickshank Elderly Persons Centre.

The Chair: Ellen, if you'd like to take your place. Ellen, is the applicant Mr Tennyson here?

Mrs MacKinnon: The applicant is Moore township, and Wayne Beaton is going to represent it, not Mr Tennyson.

Madam Chair, members of the committee, I take great pleasure in presenting An Act respecting the Cruickshank Elderly Persons Centre, Bill Pr88. Wayne will speak on behalf of this particular centre.

Mr Wayne Beaton: The bill is very self-explanatory. As you can see, it's to request a tax exemption for the elderly persons centre at the Cruickshank centre in Corunna, Ontario, in the township of Moore.

The Chair: Is there anyone else in the audience who has any concerns or objections to this bill? I would ask them to come forward at this time. Seeing none, Mr Hayes, as the parliamentary assistant, do you have any comments to make?

Mr Hayes: No, we do not. The Ministry of Municipal Affairs does not have any objection to this bill, providing that certain amendments will be introduced.

1010

The Chair: Do the members have any comments or questions to make on Pr88?

Mr Hansen: I have some amendments to be moved afterwards, if there are any questions.

The Chair: I take it that as there are no questions we can move to the vote. Any objection to going forward with the vote?

Seeing none, shall section 1 carry?

Mr Hansen: I have a motion to be moved under subsection 1(1).

I move that subsection 1(1) of the bill be struck out and the following substituted:

"Tax exemption

"1(1) The council of the corporation of the township of Moore may pass bylaws exempting from taxes for municipal and school purposes, other than local improvement rates, the land, as defined in the Assessment Act, owned by the Moore Presbyterian Foundation, being the land and premises described in the schedule, so long as the land is owned by the Moore Presbyterian Foundation, used consistently with its objects and occupied and used solely for the purposes of the Cruickshank Elderly Persons Centre."

The Chair: Any discussion on that motion? If there are no comments on this particular amendment as put forward, all those in favour of the amendment as read? Carried.

Mr Hansen: Also under section 1, adding subsections (4), (5) and (6):

I move that section 1 of the bill be amended by adding the following subsections:

"Limitation

"(4) No exemption shall be granted under subsection (1) in respect of land used for a commercial purpose even if that commercial purpose has a cultural or recreational aspect to it.

"Notification

"(5) Upon the passing of a bylaw under this act, the clerk of the corporation of the township of Moore,

"(a) shall notify the assessment commissioner of the contents of the bylaw; and

"(b) shall cancel the taxes levied on the exempted land from the effective date of the bylaw to the date on which the assessment roll is revised in respect of the land exempted by the bylaw.

"Limitation

"(6) The area of land that may be exempted under subsection (1) shall not exceed 13,000 square feet."

Mr Eddy: I have a question about subsection (4); I'd like the response of the applicant to the wording of subsection (4). I'm not sure whether it creates a problem or not. It sounds to me that it could, in view of the fact that a cultural or recreational facility might have a commercial aspect—I realize this is turning the wording around a little bit—in connection therewith on occasion. Maybe it doesn't cause a problem, but I'd like the applicant to respond, if they wouldn't mind.

The Chair: Mr Beaton, do you have any comments to make?

Mr Beaton: I really don't foresee any problem with that because there's no way it's going to be used in a commercial purpose whatsoever.

Mr David Johnson: Following up on Mr Eddy's comments, this is a seniors residence, and sometimes such residences might have a craft centre or something like that where goods might be sold. Would this exclude such an arrangement? I don't know who to ask that of.

Mr Beaton: This particular centre really does not have craft sales. Basically they make crafts to take to different areas in the community such as church bazaars, things like that. But to actually have a craft sale in this particular facility, they do not use it for that.

Mr David Johnson: Maybe to legislative counsel or whoever I can ask the question of here, if in the future they wanted to have a craft sale on the premises, would that be excluded?

Mr Tom Melville: I don't believe it would be. Ordinarily with non-profit corporations, you can have ancillary commercial carryings-on.

Mr David Johnson: Then can I just ask, on subsection (6), the limitation to 13,000 square feet, why it was felt necessary to put something like that in?

Mr Melville: First of all, the applicant has agreed to these changes. I'll point that out. I believe that the reason for that is that the elderly persons centre is contained within a larger residential complex, so it was necessary to limit the area subject to the tax exemption.

The Chair: Very good. Seeing no further questions on the motion before you, all those in favour? That's carried.

Shall section 1, as amended, carry? Carried.

Shall sections 2 and 3 carry? Carried.

Ms Mathysen, I believe you indicated that you have an amendment.

Mrs Irene Mathysen (Middlesex): I move that the bill be amended by adding the following schedule:

"The land situate in the former village of Corunna in the township of Moore in the county of Lambton, and being composed of part of lot 63, front concession, and known municipally as 198 Beckwith Street, Corunna, Ontario."

The Chair: Any discussion on that motion? All those in favour of the motion? The motion is carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill, as amended, to the House?

Mr Hansen, did you have an additional motion?

Mr Hansen: I move that the committee recommend that the fees and actual cost of printing at all stages and in the annual statutes be remitted on Bill Pr88, An Act respecting the Cruickshank Elderly Persons Centre.

The Chair: Any discussion on that motion? All those in favour of the motion? Carried.

Thank you, Ellen and Wayne.

Mrs MacKinnon: Thank you very much, committee members and Madam Chair.

1020

CITY OF NORTH YORK ACT, 1993

LOI DE 1993 SUR LA CITÉ DE NORTH YORK

Consideration of Bill Pr74, An Act respecting the

City of North York / Loi concernant la cité de North York.

The Chair: Now we will ask Mr Perruzza, Mr Shachter, Mr Spensieri. Anthony, would you introduce your guests and the applicants. You would then be able to make some opening remarks and then they in turn will be making remarks.

Mr Anthony Perruzza (Downsview): Good morning. With me are Irvin Shachter—I believe he's the solicitor representing the city of North York—and Nick Spensieri, who is with the parking authority for the city of North York.

Before you today you have a bill, the purpose of this bill which is essentially to allow the corporation of the city of North York to increase the number of members of the parking authority from three to a maximum of five. The bill would also enable the city to pass bylaws authorizing the parking authority to enter into agreements with any person to maintain and to operate and manage parking facilities outside of the city of North York boundaries. That's essentially what the intent is.

The Chair: Mr Shachter or Mr Spensieri, if you have any comments to make, please introduce yourself first for the purposes of Hansard.

Mr Irvin Shachter: Good morning. My name is Irvin Shachter. I'm with the legal department of the city of North York. I'm here on behalf of the parking authority of the city of North York with respect to Bill Pr74.

If I may make a few brief comments, just a little bit of background with respect to the parking authority, it was established by bylaw 30848 in May 1990. In September 1990, the bylaw was amended by bylaw 31295 to further clarify the powers and authorities of the particular parking authority. Since 1989, the parking authority of North York has been established and has been operating within the city of North York.

Within its mission statement, the mission of the parking authority of North York is to provide the highest level of parking facilities within the city and to provide for parking facilities for the residents of the city.

We are here before you today with respect to Bill Pr74, the effect of which is really to do three things.

The first is to increase the board of the parking authority from three members to five, to provide for broader representation.

The second matter is to provide for authority for the parking authority to enter into agreements with private individuals. As you are aware, the Municipal Act constrains parking authorities from operating facilities that are not municipal facilities. It is the desire of the parking authority at this juncture to have the authority to enter into and provide parking management for private entities on a requested basis.

For example, a building that would be interested in having the parking authority use its expertise to manage the parking at that particular building could conceivably come to the parking authority, enter into an agreement and the parking authority would manage that particular building.

You may or may not be aware that the city of Toronto has since 1988, I believe it is, had private legislation which gives them the authority to enter into private agreements with individuals in the city of Toronto. I should correct myself: It's actually Bill Pr9, chapter 22, Statutes of Ontario, 1985. It received royal assent December 18, 1985. It has been working in the city of Toronto for that period of time.

The bill does one further thing. It also authorizes the parking authority of North York to enter into parking agreements with private entities outside of the boundaries of the city of North York. Again, the difficulty with this particular matter is that, as you are probably aware, the city is constrained by the provision under the Municipal Act, I believe section 101, which only permits a municipality, and also as a result a parking authority, to exercise its powers within the jurisdiction of the geographical boundaries of the city of North York. We are requesting that the authorization be given through this bill to enter into the agreements outside of the city.

One example I can give that Mr Spensieri has brought to my attention recently was that Seneca College has requested a bid from the parking authority of North York for the parking authority to operate parking management for all of its lots. It comes as a one-tender package. It involves seven lots, all of the various Seneca College lots. The difficulty is that there are two small Seneca lots outside of the jurisdiction of the city of North York. The parking authority is unable, because of that, to bid for operation of all the lots.

It's for those reasons that we are here before you today. We would be pleased to answer any questions you may have.

The Chair: Very good. I do have to ask if there are any other interested parties at this point who would like to come forward. I believe we have Dennis Perlin.

Ms Mary Ellen Bench: I'm here on behalf of Dennis Perlin. My name is Mary Ellen Bench, director of legal services for the city of Toronto. I have a written submission. When the president of the parking authority, Norris Zucchet, arrives I will have him sign the copies, but you'll have the original fully executed. He was tied up in another meeting and should be here momentarily.

Basically, the position of the city of Toronto is in support of the legislation as currently drafted. The city of Toronto and the parking authority of the city of Toronto originally asked to be present at this proceeding because of a concern with respect to the operation of

private parking facilities outside of the city of North York. The legislation as originally drafted did not have a requirement that the consent of the municipality be required, and that was the main concern. That has been addressed in Pr74, as it's been amended. For instance, if the parking authority of North York wanted to operate parking facilities in the city of Toronto, the consent of the city of Toronto would be required by the new amendment. As long as that consent is required, then the city of Toronto and the parking authority of Toronto do not have objections.

The Chair: Very good. Are there any questions on the part of the members?

Mr Eddy: To follow up on that point, it would be the same with any adjoining municipality, is that correct?

Ms Bench: Yes, it would. It's broader than that. We've applied for the same kind of legislation with the same condition on it, so it would apply to any municipality. Mr Shachter has mentioned section 101 of the Municipal Act, which does restrict a municipality to its own boundaries.

Mr Eddy: I'm pleased that you mentioned the restrictions in the Municipal Act, because that's another thing that should be followed up. When amendments are coming on the Municipal Act before the Legislature, I think this is another one that we should broaden. Whenever you restrict a body to a certain number of things and don't provide broader legislation, you run into the need, as we've seen today, for private legislation. I think that's something we should follow up on, and broaden the legislation to allow any municipality that has a parking authority or may form one in the future to have such powers. But I am in agreement with the bill.

Mr David Johnson: Where does it say in the bill at present that it requires the agreement of the other municipality?

Mr Shachter: It's contained in the last sentence of subsection 2(1), in the section entitled "Agreements." Agreements will be "with the consent of the council of the appropriate municipality."

Mr David Johnson: Oh, with the consent of the council. I see; right there.

Mr Shachter: To go on from Mr Eddy's comment, that would include Richmond Hill. It isn't just Toronto and North York. It does include all municipalities.

Mr David Johnson: And obviously, you're in agreement with that clause?

Mr Shachter: That's correct, yes. We felt it was an appropriate restriction.

Mr David Johnson: It's interesting, the city of Toronto being here. The city of Toronto actually operates a parking operation in the borough of East York, but that was by mutual consent. I don't know if

you're aware of that or not.

Ms Bench: No, I'm not. We're applying for the same legislation to operate outside. There is a provision in the Metro Toronto act that allows us to operate Metro facilities beyond our borders, so we do have more flexibility than other parking authorities at present.

The Chair: I would like to turn to Mr Hayes at this point and request if he has any comments on behalf of the Ministry of Municipal Affairs.

Mr Hayes: The Ministry of Municipal Affairs has no objections to this bill.

The Chair: Thank you. You had indicated, Ms Bench, that you are waiting for another interested party to join us.

Ms Bench: Yes, Mr Norris Zucchet, who is the president of the parking authority. It's to be a jointly signed submission which was reviewed with Mr Zucchet. I was hoping to get his signature when he came in this morning. He's been delayed a little later than I thought. He should be here momentarily, but the concerns I've expressed are the same as his, basically that the city of Toronto has an opportunity to address the matter if the parking authority of North York wants to compete with the parking authority of Toronto.

The Chair: As he has not arrived, we really do have to continue. Any objections on behalf of the members to do that? Ron?

Mr Eddy: Madam Chair, in view of the fact that it is the same submission and that we have dealt with it and agreed to it, surely there isn't a problem.

Mr Hansen: His first name might be the same, but he had the same thoughts I had.

The Chair: Very good. Thank you for reading each others' minds an awful lot today. Anyway, are the members ready to vote?

Shall sections 1 through 4 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

The Chair: Very good. That's the exercise. Thank you for coming and for your submission.

Mr Shachter: Thank you, Madam Chair.

The committee adjourned at 1030.

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Ruprecht, Tony (Parkdale L)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Cooper, Mike (Kitchener-Wilmot ND) for Mr Fletcher
Mathysen, Irene (Middlesex ND) for Mr Mills

Also taking part / Autres participants et participantes:

Hayes, Pat, parliamentary assistant to the Minister of Municipal Affairs
Melville, Tom, legal counsel, Ministry of Municipal Affairs

Clerk / Greffière: Pajeska, Donna

Staff / Personnel:

Klein, Susan, legislative counsel
Mifsud, Lucinda, legislative counsel

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Wednesday 23 June 1993

Journal des débats (Hansard)

Mercredi 23 juin 1993

Standing committee on
regulations and private bills

Comité permanent des
règlements et des projets
de loi privés



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LEGISLATIVE ASSEMBLY OF ONTARIO

T-61

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 23 June 1993

The committee met at 0936 in committee room 1.

CHUA DI-DA (AMIDATEMPLE)
OF TORONTO ACT, 1993

Consideration of Bill Pr11, An Act to revive Chua Di-Da (Amidatemple) of Toronto.

The Chair (Ms Christel Haeck): Mr Ruprecht, you're right on the mark here ready to begin with the applicant. Please begin with your remarks.

Mr Tony Ruprecht (Parkdale): I'm very happy this morning, members of the committee, to introduce to you Mr Noi Nguyen, who is the vice-president of the Chua Di-Da (Amidatemple) Toronto and who is going to explain to us very briefly why the default notice at that point hadn't been received.

Mr Noi Nguyen: I don't know the parliamentary procedure, so I would like to proceed.

The Chair: Mr Nguyen, if you would continue and then possibly the members might ask you some questions. But it's very informal. Be as comfortable as you can be.

Mr Nguyen: Chua Di-Da failed to send back the notice of our address change after it moved to another location shortly after incorporation and Chua Di-Da did not receive the notice of default because it moved to another location and those members returned to their old address occasionally to look for mail.

Chua Di-Da did not realize that it was dissolved after five years until later when I found out when I contacted the office of public trustee. Chua Di-Da still continued its activities even after it was dissolved without knowing that it was dissolved.

The Chair: Very good. Are there any objections from the Ministry of Municipal Affairs?

Mr Pat Hayes (Essex-Kent): No.

The Chair: I'll open it to questions.

Mr Ron Hansen (Lincoln): If Mr Ruprecht is here representing the interested party, I have no problem in supporting this particular bill.

The Chair: Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Mr Derek Fletcher (Guelph): I move that the committee recommend that the fees and the actual costs of printing at all stages and in the annual statutes be remitted on Bill Pr11, An Act to revive Chua Di-Da (Amidatemple) of Toronto.

The Chair: All in favour? Carried.

Mr Ruprecht: Madam Chair, I want to thank the committee and Donna Pajeska for her understanding in putting it on for today.

The Chair: Thank you very much, Mr Nguyen. That was very quick and I hope satisfactory to you.

ROSALIND BLAUER CENTRE
FOR CHILD CARE ACT, 1993

Consideration of Bill Pr34, An Act to revive Rosalind Blauer Centre for Child Care.

The Chair: Mrs MacKinnon, if you'd like to take the chair while I join my applicant.

The Vice-Chair (Mrs Ellen MacKinnon): Ms Haeck, if you'd please make your comments regarding Bill Pr34, An Act to revive Rosalind Blauer Centre for Child Care.

Ms Christel Haeck (St Catharines-Brock): Ms Tracey Haapamaki is here on behalf of the child care centre, and I had a chance to meet with her several months ago when she and other members of the staff realized that the centre was no longer incorporated. So I'm pleased to see that she's here and that obviously all of the work done to prepare this bill has met with the committee's satisfaction to this point and I'd like to introduce Ms Haapamaki to make any comments on behalf of the centre.

Ms Tracey Haapamaki: Basically what happened was the board is made up of parents and it tends to be highly fluid and sometimes lags in continuity, so we just discovered this in the last year and we've just taken the steps to revive the status, unaware that this had actually happened in 1987.

The Vice-Chair: Thank you very much. Are there any interested parties who wish to speak to this particular bill? Parliamentary assistant, have you some remarks?

Mr Hayes: Madam Chair, the Ministry of Municipal Affairs has no objections to this application.

The Vice-Chair: Questions from the committee?

Mr Ruprecht: Just a short statement, Madam Chair, that Ms Haeck has examined this with great detail and I would trust in her judgement totally and that's why I will support this.

Ms Haeck: I'll refrain from making any comments.

The Vice-Chair: Are the members ready to vote?

Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall we report the bill to the House? Agreed.

Mr Gordon Mills (Durham East): Madam Chair, I would like to move that the committee recommend that the fees and the actual cost of printing at all stages and in the annual statutes be remitted on Bill Pr34, An Act to revive Rosalind Blauer Centre for Child Care. In other words, that it doesn't cost them anything.

The Vice-Chair: Any discussion? All agreed? Thank you all very much; thank you for coming. It was rather painful in the end.

Ms Haeck: I'd like to thank the committee on behalf of the centre and I know Ms Haapamaki and the centre are pleased with the quick response to this bill.

CITY OF GLOUCESTER ACT, 1993

Consideration of Bill Pr18, An Act respecting the City of Gloucester.

The Chair: Mr Morin, how nice to see you. You have—let me check my agenda here—Pr18, An Act respecting the City of Gloucester. If you would please introduce your applicant, as well.

Mr Gilles E. Morin (Carleton East): Yes, I'd like you to meet Mr Minkowski, who is the legal counsel for the city of Gloucester.

The city of Gloucester has now reached a population of 104,000. It's one of the fastest-growing communities in Ontario. The responsibilities have also changed and this is the reason Pr18 was introduced.

Mr Michael Minkowski: Thank you for the opportunity of presenting some submissions. I'll try to keep them brief. The principal points have been set out in the written compendium, which I understand has been circulated.

The purpose of this legislation is twofold: first to permit city council to reacquire licensing powers which have technically devolved on the City of Gloucester Police Services Board because of the provisions of the Municipal Act; and second, to allow the city to charge licence fees which reflect the true administrative costs as opposed to the fixed costs of between \$10 and \$50 set by the Municipal Act.

By way of background information, as you may be aware, under the Municipal Act, when a municipality exceeds a population of 100,000, technically the power and authority to license, regulate and govern devolves on the police services board. Examples of some of these types of businesses and trades that would be affected by these licensing powers include sale of refreshments, restaurants and food shops, sale of meat, barbershops, driving schools, bowling alleys and so forth.

It is the position of the city that these types of matters properly belong under the jurisdiction of the city of Gloucester. The city has now a population, as Mr Morin has mentioned, of 104,000, and the reasons why we'd like to submit that the city should retain these licensing powers are fourfold. First, the city has the

technical expertise, based upon the fact that until it changed in population, it historically had always carried on these functions. Second, it has had and continues to have the administrative and enforcement infrastructure. Third, it is our submission that the licensing function is a legislative act which should be performed by a publicly elected body that's accountable, namely municipal council. Fourth, the city of Gloucester police services has no objection and in fact it has no interest in acquiring or having any of these functions.

With respect to the licence fees, the objective is to have a cost recovery system that the proposed bill puts a cap on, that the fees cannot exceed the reasonable administrative costs, so that there is some control there and so that council acts in a responsible manner.

This is motivated by the fact that there are several sections in the Municipal Act which set, pre-fixed, the maximum licence fee that can be charged. These fees were set, in many cases, going back to the early part of the century. For instance, the ability to set a licence fee for auto service stations under section 210, paragraph 154, was established in 1933 at a licence fee of \$10, and that's remained unchanged. I can go through a number of items where these fees have been set, from 1914, 1922, and the maximum is, as I said, in many cases \$50 and in some cases \$20. The written submissions indicate that the administrative costs are somewhat higher—not too much higher, but overall.

In conclusion, the city has received no opposition as a result of advertisements of its notice. It has advertised in both the local French and English newspapers. It has received no notice of any opposition or objection from any resident, group or association within the city or elsewhere.

The Ministry of Municipal Affairs is on side with this legislation. We've received the kind assistance of the legislative counsel in some of the drafting issues.

The bill will be identical to the legislation, the powers that have been granted to Gloucester's neighbours, the city of Ottawa in 1980, and the city of Nepean in 1984 and 1991. We're really not doing anything different from what's already been approved previously and what's been granted. We're creating some consistency and uniformity on the municipal level within the Ottawa-Carleton region.

There's one minor technical amendment that has to be performed. I'm prepared to answer any questions.

The Chair: Let me just do one quick procedural check to make sure there are no other interested parties here in the audience who wish to come forward and make any comments on this bill. Seeing none, I will turn to the members.

Mr David Johnson (Don Mills): To the representative, looking at the processing costs outlined on page 11, some of them seem somewhat low, and I guess

you've explained the history. Have you tried to address these costs in the past?

Mr Minkowski: Address them in what way?

Mr David Johnson: Legislation would be required, apparently. Have you attempted to have these changed in the past to be more realistic?

Mr Minkowski: No, we haven't.

Mr David Johnson: Okay. In terms of the authority, the authority at present, as we sit here today, rests with the city or the police services board?

Mr Minkowski: As we sit here today, the authority, with respect to the business and trades and callings, in most cases, now rests with the police services board, technically speaking.

Mr David Johnson: Technically, but the city is actually still performing that function today, is it?

Mr Minkowski: That's right.

Mr David Johnson: What triggered the change? Was it the fact that you went over 100,000 people?

Mr Minkowski: The city wanted to amend one aspect of its licensing bylaw last year and sought a legal opinion on a related but different issue. At that time we became aware of the fact that because of the population, there's a technical problem.

Mr David Johnson: Technically, at that point, you were actually in violation. I guess you probably have been for some time.

Mr Minkowski: The 1991 census indicated a population of 101,000, so it's been since 1991.

Mr David Johnson: How does the city run the operation? Is it part of the city council itself, or is it run out of a committee appointed by the council?

Mr Minkowski: In terms of the actual administration? The planning and development department has a bylaw enforcement branch. That branch has designated licensing officers and property standards officers and enforcement officers, and they actually administer the whole scheme. The manager of that branch reports through the commissioner of planning and development to council as a whole and is responsible and accountable in that way.

Mr Jim Wilson (Simcoe West): Madam Chair, I just wanted to ask, through you perhaps to the parliamentary assistant: Given that the witness has indicated there is precedent both in Ottawa and Nepean, I'm wondering how frequently the Legislature has been asked to pass a private bill like this with respect to the transferring of these licensing powers, and whether the ministry has perhaps looked at making adjustments to the Municipal Act so that the cost and time involved in this process wouldn't have to be repeated, if the government has no objection to devolving these powers from the police services board to the municipalities themselves.

The Chair: Procedurally, that's the next part of what we'll do, but I have one more questioner before I'm in the position of giving it to Mr Hayes.

Mr Jim Wilson: Normally, we don't get such an extensive answer which would be required to my question. Usually, we just get a yes, no, or no objection from the parliamentary assistant. So when he does have the opportunity, I'd like to know what the precedent is.

The Chair: Sure. Mr Hayes is quite prepared to answer your question.

Mr Hayes: Mr Wilson has raised a very good point, and I think it's worthwhile that the ministry does look at that, because there are other bills where we have the same concern, that possibly it would be a good idea to look at a bill, period, instead of individual private bills. We have discussed this on other bills too; yes, we're going to look at it.

Mr Ron Eddy (Brant-Haldimand): My comments were along the same lines. The Municipal Act, as we know, is archaic and outdated in many areas; one is the 100,000 population line, and secondly, wherever there are set fees stated in an act they become outdated in one way or another. Indeed there are some other things that should be amended in the Municipal Act, and I hope a list is being kept of them, because it's past time the act was updated in many ways.

But it should be stated in any case that instead of a set fee or amount, it is an amount to be determined by the body providing this service with a cost recovery in mind, because the mode of business any more is cost recovery. I'm pleased to support the bill and add those comments.

The Chair: Any additional comments, Mr Hayes?

Mr Hayes: I apologize to Mr Wilson. I think you asked how many others had come before the committee. There were actually the three over the last 10 years, Ottawa, Nepean and the city of Windsor. I'm sure there are a lot of others.

However, the Ministry of Municipal Affairs does not have any objections to this application.

Mr David Johnson: Perhaps to the staff who are here, in Metropolitan Toronto there is a licensing commission which is appointed by the regional government, and as I understand what's happening here, the licensing commission would do the same sort of thing. It doesn't come from the police services board; it comes through the regional council. I thought that was rather a standard procedure. What they're saying seems to make a great deal of sense, that this should be at the municipal level as opposed to the police services board level. Is Metro unique in that regard?

Ms Margaret Wood: I'm Margaret Wood, staff at the Ministry of Municipal Affairs. Yes, Metro is unique in that it does have a licensing commission performing its licensing function. Metro is not unique, however, in

retaining licensing authority with the corporation itself rather than the police services board, as we've indicated earlier.

Something that you may be interested in: The ministry has probably at least several times over the last decade considered making a major update of the licensing provisions in the Municipal Act. The last attempt did not go forward because of objections from the business community. I think it's well recognized in the ministry that there is a need to update the licensing provisions in the Municipal Act, and certainly this 100,000 population item is a good case in point. We do realize that this is something that could be changed, and it has been considered in the past, but we haven't had any success.

Mr David Johnson: Is the ministry then looking at the possibility of redirecting this responsibility to the smaller municipalities even below 100,000? Is that what you're saying?

Ms Wood: No. Municipalities below 100,000 population have the responsibility for the licensing.

Mr David Johnson: So what I should have said was the reverse: Is the ministry looking at directing this responsibility to municipalities over 100,000?

Ms Wood: We're not looking at it at this immediate moment, but certainly we have considered amendments like this in the past. As I indicated earlier, our last attempt to revamp the licensing legislation was opposed by the business community. We realize that there is a need to update the provisions, but we haven't had any luck in introducing them.

Mr Eddy: Just a comment and a question perhaps. Because the matter of licensing in municipalities has been opened to the extent it has, with proposed amendments, I would hope that when any further amendments come forward it's a much simpler system. I feel very strongly that elected councils should have the right and the responsibility to establish licences and the fees therefor, realizing that they're held accountable by their electors in the particular municipalities. It's a better system, and if you're looking at licensing capabilities at the upper-tier level, restructured county or county, I think it has to be with the agreement of the local municipalities. Metro is unique in its Metro-wide licensing, and possibly that's appropriate. I haven't heard a lot of criticism of that.

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The Chair: Are the members prepared to vote on Bill Pr18?

Shall sections 1 and 2 carry? Carried.

I believe we have an amendment to section 3.

Mr Fletcher: I move that paragraph 5 of subsection 3(1) of the bill be amended by striking out "10" and substituting "15."

The Chair: All in favour of the amendment?

Carried. All in favour of the section, as amended? Carried.

Shall sections 4 and 5 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you for coming forward, Mr Morin, and your capable presentation of the bill. We try to make it painless.

Mr Morin: Can I do the same thing with Bill 154?

The Chair: No comment.

CAMBRIDGE-GUELPH RAILWAY
COMPANY LIMITED ACT, 1993.
AND ASSOCIATED LEGISLATION

Consideration of Bill Pr26, An Act respecting Cambridge-Guelph Railway Company Limited; Bill Pr27, An Act respecting Georgian-Simcoe Railway Company Limited; Bill Pr29, An Act respecting Picton-Trenton Railway Company Limited; Bill Pr30, An Act respecting Stratford, Huron and Bruce Railway Company Limited; Bill Pr31, An Act respecting Waterloo-St Jacobs Railway Company Limited; and Bill Pr32, An Act respecting Waubesa Railway Company Limited.

The Chair: Ladies and gentlemen, we have a number of railway bills, shall we call them, coming forward to us. I would like the applicants to come to the table here, and we have a series of sponsors: Mr Arnott, Mr Wilson, Mr Johnson. Mr Waters, could you please join us here near the microphones? Mr Johnson, I understand you are acting on behalf of Mrs Witmer. Is there a member of the Liberal caucus prepared to act on behalf of Mr Elston? Oh, there's Mr Elston. Good. Your timing is excellent, Murray. If you want to move forward to one of the mikes so we can pick up any comments you might—

Interjection: I don't think we need them.

The Chair: Well, we can usually hear them, but I think Hansard might like to have him on record.

The Chair: Just for the record, we're dealing with Bills Pr26, Pr27, Pr29, Pr30, Pr31 and Pr32. Mr Arnott, the act respecting the Cambridge-Guelph Railway Co is first, so if you could make a few opening comments, and I'll turn to the other members and then turn to the applicant for comments.

Mr Ted Arnott (Wellington): Good morning, committee members. I'm privileged to be here this morning to recommend approval of An Act respecting Cambridge-Guelph Railway Company Limited. I have Carol Pennycook here from the firm of Davies, Ward and Beck, who will give some comments on this bill with this special legislation respecting the operation of a railway. The applicant represents that it is making preparations to operate railway services in Ontario.

Mr Jim Wilson: I am pleased to recommend to the committee and recommend to the House the passage of Bill Pr27, An Act respecting Georgian-Simcoe Railway Company Limited.

Very briefly, the importance of this to my riding and to Mr Murdoch's riding, to both the counties of Simcoe and Grey, is that, as members will know, with all of these bills, I would think, CN has been in the process over the years of abandoning these short lines, these spur lines. The purpose of the bill is to eventually have a purchaser of these lines and to be able to operate short-line railway companies.

It's of great benefit to the town of Collingwood because of two of our major industries, Nacan starch products and Canadian Mist, which is the second-largest Canadian whisky in terms of volume of sales in the United States; over 80% of its product is exported to the United States via rail. We want to ensure that the Meaford spur, in the case of Pr27, continues to operate and that these companies stay in operation.

I ask the committee's support for that bill.

Mr Paul R. Johnson (Prince Edward-Lennox-South Hastings): I too am in favour certainly of this bill, Pr29, and indeed that's why I'm here today as sponsor. You may not know, but the line is almost wholly situated within Prince Edward county, which is in my riding of Prince Edward-Lennox-South Hastings. I think that it certainly plays an important role in that community and I know there's considerable interest for the line within that community. The passing of this bill is certainly a formality in allowing that line to continue operating.

You didn't mention it, Chair, so I just thought I'd mention it now, that we do have an interested party here in regard to Bill Pr29, and that's Peter Wilson, who's the chair of the Central Ontario Railway. I wasn't sure whether you were going to allow him to speak to this.

The Chair: I just wanted to get the sponsors all out of the way at once and then turn it over to Ms Pennycook so that we could deal with these, since she's the sponsor for all of the bills, and then move into interested parties. I was just trying, since there are six bills that are all similar, to logistically try to deal with them all at once. Mr Elston, regarding the Stratford, Huron and Bruce Railway Co.

Mr Murray J. Elston (Bruce): This likewise is a bill that will provide some economic development opportunities for our area. We have interested parties. We have already completed initial discussions about rerailing the line that was derailed by CN. The discussions and the passage of this bill as a result are, in my view, critical to the ongoing possibilities of expanded economic activity.

It will serve some existing industries that are already on site in Bruce county and as a result probably will be

able to pick up some business as well along the line, because the bulk of the business will operate from Bruce county. That will provide other businesses, in my view anyway, with the opportunity of joining in an economically feasible mode of transportation as a result of the end user.

We would really like to get this bill passed. It's taken a little bit longer than we had hoped. There have been some delays already, so if we could get the committee's approval to go forward, that would be extremely helpful to my area and to the people who are looking for an expansion of economic activity there.

The Chair: Mr Johnson, on behalf of the Waterloo-St Jacobs Railway Co.

Mr David Johnson: I'm not quite as familiar, I guess, Madam Chairman, having been just designated the sponsor about 15 minutes ago, but I understand that this will also support economic development opportunities of a Waterloo spur extending from Kitchener to Elmira, which is about 12 miles, I guess, of track and about 101 acres of land involved. It will facilitate a feeder line to the property involved. I'm supportive as well of the application.

The Chair: Mr Waters, on behalf of the Waubaushe Railway Co.

1010

Mr Daniel Waters (Muskoka-Georgian Bay): I too am asking for the support of the committee in respect of the Waubaushe Railway Co. Over a year ago we went to the National Transportation Agency, a federal commission, to save our rail line, as CN, I believe, is not living up to what the intent of it was.

Historically, they were given this land to supply transportation throughout the province and they refuse to live up to that, so I see this as the best alternative. We ended up within 18 months and then we will have to go back again to the commission, and obviously CN has more money to fight this than the town of Midland.

We have a number of industries that at this time use the rail system, we have a number more that want to use it and CN makes it impossible for them to connect up and use it. So I see this as the best alternative to it, if we can get a private short-line railway company in there. We know we have a viable line, we need the transportation, and therefore I will be supporting this.

The Chair: Thank you, Mr Waters. What I would ask the members to do is possibly sit at the mikes that are available around the room here and I would ask Ms Pennycook, is there a Mr Smit available? Is he going to be making any comments, or Mr Taylor, Mr Douglas Fletcher or Mr Peter Wilson?

Ms Carol Pennycook: I'm Carol Pennycook and I will be speaking on behalf of the applicant. Mr Fletcher and Mr Smit are available in the room today to respond to any questions, should there be any, but they do not

propose to make any separate submission.

The Chair: If they could move forward, because it could happen that they will be asked questions by members—just that they are available. If you would like to continue with your remarks, Ms Pennycook.

Ms Pennycook: Our firm acts as counsel to the applicant, ScotiaMcLeod Inc, which has been retained as financial adviser to Canadian National Railway Co in connection with proposed sales by CN of various feeder lines and short-line railways. As many of the sponsors have indicated, the sale of feeder lines is consistent with CN's policy of rationalizing its assets in accordance with approvals of the National Transportation Agency.

This, as the sponsors have indicated, provides a business opportunity for operators of these feeder lines or short lines and allows the maintenance of rail service to customers in Ontario and, in some instances, provides CN with an alternative to submitting applications for abandonment of lines.

The sale itself will be conducted by a bid process and any sale or operations and approval of a purchaser of a line is subject to a number of regulatory approvals, not only at the federal level with the National Transportation Agency but also approvals in compliance with subdivision requirements under the Planning Act in Ontario, approvals of the Ontario Municipal Board, which governs the safety and other regulations regarding operations of railways in the province, and of course approval is required through the Ministry of Transportation in Ontario with respect to safe operations of equipment, track and operating procedures.

As counsel to the applicant, we have incorporated six Ontario corporations which were referred to by the sponsors and we are applying for this private bill as a formality under the Railways Act to deem each one of these individual corporations to be incorporated by a special act.

The Railways Act is a 1950s statute of the province. The last time it was amended was in 1952. As I'm sure all of you are familiar, in the 1950s the province did not have modern corporate legislation, so the only way to incorporate a company was by a special act of the Legislature, unlike today where you incorporate under the Business Corporations Act.

It's our understanding from the Ministry of Transportation that there have been a number of these bills that have come forward in the last several years. Indeed, we have sponsored one before and there are a number of companies around. We have discussed with them the possibility of amendments to the Railways Act to alleviate this formality of requiring a Business Corporations Act company to be incorporated by a special act. Although the ministry agrees with us, the Railways Act is very complicated and they are looking at revamping the entire act and did not want to go about it piecemeal.

I don't have any idea what their timetable is for that, but they are aware of the technical problem the statute creates on its present terms.

I would like to also mention that this private bill simply qualifies these companies to apply to operate a railway. It does not in any event eliminate the need for the usual regulatory procedures, not only on a federal basis but in particular approvals of the Ontario Municipal Board. No company, including any of these, if these bills are approved, would be entitled to operate a railway in the province of Ontario without an order of the Ontario Municipal Board.

I believe that's important for the members to understand because a number of inquiries in response to our advertisements of this bill raised concerns from citizens in various communities regarding safety standards and operational standards, access to properties where lines are currently located. Typically, the Ontario Municipal Board orders deal with these types of things in detail, providing an approval or a licence, if you will, for a company to operate a railway only subject to its complying with these types of things.

The Ontario Municipal Board continues to be in touch with railways on an ongoing basis as a regulator and as the watchdog to ensure on an ongoing basis that appropriate operational standards, safety standards and community standards are met by these railways, so the bill of course does not deal with any of those requirements. The bill simply deals with the qualification of these companies as special act companies so that they may in fact apply both as a purchaser of lines and then to receive operational procedures.

In closing, I would mention that we have met with both senior staff and legal counsel at the Ministry of Transportation and at the Ontario Municipal Board in preparation of the draft bill, as well as with the sponsors, and have had the benefit of their input into the wording of these acts.

The Chair: Mr Wilson, at this point you're the only person or organization who is listed on my agenda as an interested party. I will ask you first to make some comments as an interested party, and then we'll see if there are any others in the room at this time.

Mr Peter Wilson: My name is Peter Wilson and I represent a non-profit group called the Central Ontario Historical Railway Association. We started working on obtaining the rail line between Trenton and Picton in 1989, when the first abandonment was announced, so this seems to be a part of the natural process, four years later, which is coming our way.

We think the rail line between Trenton and Picton is very valuable to the community. We have an expanded use for it. We'd like to use it as the economic and practical base for a community-based college for the skilled trades. To that end, we have organized 14 high

school shop classes to come with us and operate the rail line for both freight and passenger.

It's quite a detailed plan, and I'll leave with you a copy of our business plan. That's why I would urge that you approve this bill as quickly as possible so we can get to work. If we become the successful bidder, we should be in business in September 1993. We believe that over the first five years we can create 50 to 60 permanent, full-time jobs, using the railway for tourism and freight. We're very anxious to get on with that job because we come from a neighbourhood that has tremendous unemployment, and we really need the break. That's my appeal to have this bill passed through as quickly as possible.

The Chair: Let me just ask, are there any other interested parties who are here in the audience who would wish to speak on any of the railway bills that have come before us? Seeing none, I will open it up to the members. We have two members who wish to ask some questions, and that's Mr O'Neil and then Mr Ruprecht.

Mr Hugh O'Neil (Quinte): I should mention that part of the riding of Quinte is touched by this railway line because it starts from Trenton. Trenton is within my riding. I'd also like to thank Peter for appearing here today. I know that Peter Wilson has done a lot of work and studies on trying to find a use for this line which would benefit the whole community, not only my riding but also Mr Johnson's. I know that he's done several studies and talks about a use for it to generate some tourism, to generate some jobs. In talking with Peter, I've told him that he certainly has my support in this project as long as it can be proven that it is financially feasible.

1020

I guess that would raise some concerns. I sort of hate throwing something in here that would appear maybe to be anti-approval of these bills, but that is not the case. I believe that it's likely in each of these cases, but in particular I want to talk about this particular line which runs from Trenton to Picton and which the CNR is trying to, as I say, set up these corporations or companies whereby it can sell these particular lines off.

As I have expressed to Peter and other people within our area, although it is an excellent idea, I think that what we have to be concerned with is some of the same problems that were raised—this particular line also goes from Trenton to Marmora—of once it is sold, who is going to be responsible for a lot of the costs that could be incurred by the new purchasers, which is now having to be incurred by Canadian National Railways, and that is, who's going to look after the fencing, who's going to look after the maintenance of the crossings, who's going to look after the safety features of it, the cost of taxes, whatever those may be?

I know that in the case of Peter's application he has

received grant moneys in the past to do the studies that he's done. I think also in our particular case, to make this feasible as a tourist attraction, training for students or a train for tourists, it may be that provincially or federally whether it can sustain itself without grants that will be asked for by both the provincial and the federal governments.

I just raise some of these concerns, that once CN loses the responsibility of these through the setting up of a private company and a selling off of these companies, I think we have to know that the companies, the people who buy it, are very familiar with some of the costs that may have to be borne by that particular company or group.

I express these concerns, although as I say I think the purpose of the bills is good, but I raise these precautions.

Mr Ruprecht: I had similar concerns and I was just wondering whether Ms Pennycook is able to respond to some of the concerns by Mr O'Neil, especially in terms of maintenance, crossings, fencing, access, property rights and so on.

Ms Pennycook: Yes.

Mr Ruprecht: Then I have a second question, if that's possible, please.

Ms Pennycook: In response to Mr O'Neil's comments, certainly the applicant would agree, and it's my understanding, that their client, Canadian National, would agree.

In respect of the items that you raised as far as fencing, safety standards and so forth, those are matters that are dealt with very, very specifically by the Ontario Municipal Board and there is a series of regulations already in effect in the province that all railways are subject to that deal with safety regulations.

However, the Ontario Municipal Board orders go beyond those regulations, and properly so, because they look at particular communities where the particular rail line is and special requirements.

For example, in 1992 the Ontario Municipal Board looked at Goderich-Exeter Railway Co Ltd, which operates a short line which it acquired from CN, again through a bid process much like we're going on today, and because of concerns in the community part of the order for operations dealt with certain requirements with respect to dealing with noise levels, concerns due to the nature of the actual location of the rail line and citizens' concerns. The board went beyond the usual safety regulations that are applicable to all railways and looked at particular needs of the communities.

The municipal board, I think, deals with the requirements in that regard in a great deal of detail because it does have the benefit of requiring studies and detailed submissions on a much more specific basis than a governing body would normally deal with because it is

the ongoing watchdog, if you will, for these types of things.

We believe that financial capacity is an important aspect of the selection of a purchaser, and that is certainly considered in the bid process. The bid process doesn't merely consider what a purchaser is prepared to pay but also their ability to carry out their business plan, and this is something that is reviewed in great detail, not just by the vendor, Canadian National, but by the regulatory bodies. Again, the financial circumstances are considered in light of where the rail line has okayed it, what its intention is, what the requirements are for safety and other operational requirements.

One of the reasons that we are seeking these bills today for ScotiaMcLeod as opposed to for particular purchasers is because we see the two processes as being quite separate. This is really to facilitate a technical requirement of having a company that is incorporated under the Business Corporations Act deemed to be a "special act" company.

We have done this separate from the purchasers because the bid process itself is fairly lengthy and the process of obtaining a private bill, although the committee deals with it very expeditiously, we actually started last fall. When you go through the process of the various announcements and so forth, once a particular purchaser has been approved and gone through the regulatory process with the Ministry of Transportation and the Ontario Municipal Board, and of course CN must also deal federally with the National Transportation Agency of Canada, we felt that it was in no one's interest to add several months before operations could commence simply to facilitate the technical requirement of having the actual purchaser be deemed to be a "special act" company.

So, for example, if Mr Wilson's group was the successful purchaser, once all of those approvals had happened, rather than Mr Wilson having to create a company and go through the process of having a "special act" designation for that company, we would have taken that one step to facilitate implementation of his business plan as soon as the rest of the process was completed.

Mr Ruprecht: Ms Pennycook, I wanted you to know I've been on this committee for a number of years. Normally I wouldn't even ask any questions, since I've never seen as many heavy hitters here—there are six of them—and more support for this project. But if you don't mind, let me ask you one other question briefly, and that is: As you described, CN is trying—and for some reason it wants to get rid of this—to rationalize assets, whatever that means, and yet everyone else believes this is a great economic opportunity for some local development.

My first point would be: In this process of bidding, no company has yet been designated or determined as

a purchaser. Is that correct? That's in the process now.

The Chair: Please introduce yourself and speak into the microphone.

Mr Robert Smit: Yes, it's Bob Smit and I'm here representing CN. At this point we have only one party that has so far been selected to represent a line, and that's Canadian Agra Corp through Bruce Energy Centre. They and the sponsoring member, Murray Elston, have worked together in trying to establish that as a possibility. Their line is the one that he referred to earlier as being re-created.

Other than that, there are no members identified as yet. The intent is that whenever somebody is identified, they would go through all the necessary scrutiny. We started this process in anticipation that we would have, but once arrangements have been struck, then they could apply through the normal course of approvals, but they could not do so until these bills were available.

Mr Ruprecht: So it would be fairly impossible for a party that's been designated to come to this committee and ask for it to be subdivided further into smaller segments of rail tracks. That would not be possible?

Mr Smit: No.

Mr Ruprecht: Good. Thank you, Madam Chair.

Mr Eddy: Although I come from a riding that has suffered the abandonment of several railway lines—some of which were certainly needed by industries located there, and that's causing a hardship, and some of which were indeed making money, although there are ways of course of changing balance sheets, financial statements—I'll save my sharp criticism of CN for another forum. It's certainly more than rationalization of railway lines. It's abandonment of responsibility as well, but that's another argument for another day.

I do have three questions, two to Ms Pennycook, if I may: (1) the Railway Act, amended in 1952, if it's so complicated, restrictive and indeed archaic, perhaps it's not needed and should simply be repealed and let businesses organize and be established in the normal way. I'd like you to comment on that, if you wouldn't mind.

1030

Secondly, I had a concern when you mentioned the Planning Act. Did you mean that a new railway company established to operate a railway on one of these lines or all of these lines would be subject to the Planning Act as a new facility and be subject to more restrictions than perhaps CN is at the present time, as the present operator? Is that a complication and a problem? If it is, I suspect and hope that the OMB would have the power then to allow it to operate as CN did in those instances. I'm particularly thinking of residential subdivisions.

Ms Pennycook: In responding to your second question first, these companies would be subject to the

Planning Act, but not on a new basis. Should a purchaser acquire a short line and want to do any expansions or spurs off of that, of course, anything new would be subject to the normal approval process, but the mere acquisition of an existing line would not require a reapproval under that process. So we wouldn't see any particular kinds of complications in that regard.

The Ontario Municipal Board, of course, as I said, has a great deal of power and jurisdiction to impose whatever it feels are appropriate safety standards, fencing standards, noise requirements, that type of thing. For example, they require annual certifications by qualified engineers with respect to their review of trackage and facilities.

With respect to your first question, regarding the Railway Act, it's certainly my view, from my discussions with staff at the Ministry of Transportation, that the section of the Railway Act that requires any company operating a railway in Ontario to be deemed to be incorporated by special act of the Legislature should be repealed. But much of the balance of the act, of course, deals with operational matters relating to railways that I would expect are appropriate in that type of statute.

Mr Eddy: Thank you for your answer. Then I would submit that that section should be repealed, and that's a fairly simple matter. Perhaps it should be proceeded with as soon as possible.

My final question is addressed to the CN representative. I'm wondering if CN, for some reason, would oppose the establishment of an operative railway on any of these lines or will, on the other hand, be cooperative and hopefully facilitate the transfer to another company so indeed businesses that need these rail line facilities will be able to have them as soon as possible, and with a view that I would hope there wouldn't be very much, if any, disruption in service to those industries that need it. Would you mind commenting on that?

Mr Smit: No, I don't mind at all. That's precisely how this all started. We've initiated a program to try and replace the process of abandonment with one of establishing feeder railways that in essence in the longer term would become partners with CN in serving the communities on lines where the economics are to CN very marginal. That's the whole intent of the process, so we very much encourage the establishment of a viable partnership with a potential operator.

Mr Eddy: Thank you for that response. I commend you for it. I'm in favour of the bills and I certainly commend the applicants for having the foresight to come forward with these applications.

Mr Jim Wilson: I too want to commend CN for the development of these bills and would continue to urge the passage of them by members of the House.

I have a number of concerns. I worked for the

Honourable Perrin Beatty when we formed the coalition to, in essence, fight the abandonment by CN of the Meaford subdivision, which is a line that members should know runs between Barrie and Collingwood. However, I see these bills as a responsible action on behalf of CN to try to bring a final resolution to this matter.

I want to ask about another application before the NTA, with respect to abandonment of the Meaford subdivision—my recollection is that a couple of years ago we got a stay of execution by the NTA. The profitability of the line is in question. I really would like, for the record, a status report of CN's intentions at the NTA with respect to the Meaford subdivision, and second, any effect Bill Pr27 might have with respect to that application for abandonment.

Mr Smit: To answer your question, CN has been working with the representatives of the town of Collingwood; in fact, the rail retention committee itself. They have a very distinct interest in retaining the rail service, and so do we, if we can find an economic way of doing so. We have indicated this to the NTA, that we're going through this process to see if we can establish whether there's a viable operator who can keep the line in operation. If we, in the longer term, fail and are unable to establish a viable operator on the line, then I guess we'll have to take matters and pursue whatever action is appropriate at the time. But until such time, we have requested that no action be taken by the NTA, so we're holding the whole process open for the possibility of this to happen.

Mr Jim Wilson: I appreciate that. Thank you for your response.

Mr Hansen: I guess I'm actually going to be addressing Mr Wilson. Maybe Mr Eddy hasn't been too involved with this, but about two years ago a small short line wanted to develop between Smithville and Port Maitland for tourism; in that particular area everybody goes to Niagara Falls but they never stop off at Smithville or Dunnville, so we thought that would be one way of keeping people in the Niagara Peninsula. It seems you have the same idea.

Being unfamiliar with Picton, only having been there last Friday—I drove through; I took the southern route rather than the 401. A lot of people who go into the area, a very beautiful area, would have reasons to stay for another night or another day in that particular area.

I have been on some short rails in the United States. This is an ongoing, increasing business in the States; I talked to the president of the Santa Fe railroad, which is very interested in the short rail. This isn't something new. It's been going on in the States for a long time, and I think we should take a look at it here in Ontario and support this. I have no problem supporting this.

The one thing I'm very scared of is that if the

potential buyers are a little short on cash and the company folds and the rail is left to rot and the rails are taken up and sold as scrap, I hope we never lose the rights of way; that subdivisions go in or whatever, that the lots are sold off. As we take a look at the building up even of Toronto and some of the other urban areas, we've lost these rights of way in the corridors. It's very important that we retain them, because I think we are coming back more to public transportation rather than individual cars. I think we really have to take a look and do anything we can to protect the small railroads.

Do you have any comments on that? I know I supported another bill Paul Klopp brought in here; I think it was Huron railroad. I can't remember the name of it, but it was for the salt mines, I believe, to haul salt out. So there has been support by the government and by this committee before.

Mr Peter Wilson: I'm happy you asked about this, because unlike other lines, this line has just under \$1 million worth of freight business a year on it. It's a break-even proposition and it's been a profit-making railroad for about 114 years.

We intend to continue the profitable freight service and add to that a tourism and education business, as well as some skilled trades training. We can lower our costs a lot by using the already existing infrastructures of high schools. It's far from being a hobby railroad. It's a real professional railroad that happens to be non-profit.

As long as that cement plant at Picton is turning out cement, it will remain profitable, and we just want to build on to that profit. As you build on to the profit, it begins to stimulate other sectors of the economy. It could work away there for another 100 years, just breaking even. We'd like to take that break-even and advance it into a profit for the entire community.

Mr Hansen: One question: This isn't actually anything to do with the bill, but just for interest, what about the rolling stock? Do you have the option of purchasing the rolling stock or do you just take what comes with the line? That is important also; I know you have a business plan.

Mr Peter Wilson: Yes. I understand that the cement stock will be CN stock because it will be going other places. We're looking right now at a lot of surplus VIA stock from the 1950s. There's a lot of very good stuff sitting in Montreal, already purchased by the people of Canada. We'd like to see it go back to work between Trenton and Picton.

1040

Mr Elston: Actually, I just wanted to say to Mr Eddy when he asked his question that one good example of operating a short line was the one that goes into Goderich that Mr Klopp sponsored, and it in fact has indicated that short lines can work in Canada. They

have been in existence for quite some time in other parts of North America, but I think it's fairly clear that the successful operation of the Goderich line is really what has spawned these next series of bills and the fact that CN has, I think, probably found a more politically palatable way of rationalizing its business. It actually is finding ways of keeping these feeder lines in existence, and I think that's particularly helpful.

In relation to the operation of the OMB, if I'm not mistaken, in relation to these things it really comes in under the old Railways Act to set conditions and terms rather than the Planning Act. Is that right or not?

Ms Pennycook: Yes, that's correct.

Mr Elston: I didn't want it left to be confused by the nature of Mr Eddy's question that the Planning Act was actually what was guiding the OMB to deal with this particular operation. It's really that the Railways Act has designated the OMB to set conditions because we don't have a provincial institution separate from the OMB to look at the public interest in the operation.

They have done so with respect to the Goderich line, and you could probably take a good look at what has happened there as the prototype for the conditions and terms that operate. From my knowledge of the area, I think people are extremely pleased that it's operating well, that it's carrying the freight and in fact making a go of it, maybe even a little bit better than was initially anticipated.

That's certainly why CN's position now is a much better one for both itself and the communities, because before, I think there was no option. Unfortunately, one of my first jobs in 1981 when I came here was actually to appear in front of Bud Orange and the CTC on the abandonment of the spur of the short line between Wingham and Kincardine, so it's kind of nice to be here now seeing that this is coming back. I think this committee is probably in a position where historically it can be seen as creating a new industry in Ontario out of one that appeared before to be dying, and I'm happy about that.

The Chair: As the witnesses will probably notice, there's a lot of interest in discussing transportation. I'd love to ask a few questions myself, but I know there are other people who are interested, and I'm going to first turn to Mr Waters and then Mr O'Neil has another question.

Mr Waters: I'd like to follow up on Mr Wilson's question because I think we're both under the same gun with CN, that is, in our case we went before the committee and we had an 18-month stay of execution, and that time is rapidly running out; we're probably down to the last few months of that. Can you give us any indication from CN how long it's going to continue to operate these lines while it's looking for someone to purchase them, or is it going to abandon them and then

the person or the new company would end up having to start them up again and try to get these customers back?

Mr Smit: To answer, there's two parts to that. The second part is, would we abandon it first and then hope that somebody would come after? The answer is no. That's not to say that if we had an abandoned line and somebody wanted to buy, we're willing to talk. But as a practical matter, if a line's abandoned, that means the service has been broken to the customers on the line, and that really would serve nobody well. You can't expect a customer to sit and wait to ship by rail after not having had shipments for a year, say.

The other, I'd like to say, will be consistent with our approach on the Meaford subdivision, with your subdivision as well. We will continue to forestall any unintentional abandonment until such time as we have considered that it's not possible to find a viable operator. As long as we're convinced there's still hope to identify and work out an arrangement with a potential operator, we will not allow it to inadvertently be abandoned. That's the reason we started out on this, so that we wouldn't have to.

Mr Waters: In our case as well as in Mr Wilson's case we have elevators and a lot of elevator land. I believe it is part of what you're willing to negotiate on short line.

Mr Smit: Yes.

Mr Waters: In our case we also have a major quarry system that you started right after, and that makes the line more viable at the Orillia end of the line. In negotiations, are you willing to look at the entire line rather than the last half of the line?

Mr Smit: We have been considering that internally. There are a number of problems associated with the economics of having a partner in that movement. That is certainly a customer we have not considered abandoning and a portion of the line we have not considered abandoning yet. There may be an opportunity in the future to fold that into the potential operation, but at this point the economics of splitting the operation into two-party movements has made it difficult to fold in at the start.

Mr Waters: My last question would be the condition of the line. Are you going to allow it to continue to deteriorate? As you know, you can probably walk faster than the trains can travel between Waubesa and Midland at this point in time because of the sad condition of the line. It's deteriorated almost to the point where you can't operate on it.

Mr Smit: We'll certainly continue to do whatever maintenance is required and whatever investments are required to keep the line open and serviceable. The actual investment that would be required to upgrade it to whatever standard the potential operator may have would likely come from the operator in the future, but

we'll certainly fulfil our obligation to keep the line operable and serviceable until such time as we've reached a potential deal with a partner and have been able successfully to convey it.

Mr O'Neil: Peter raised another point which you're well aware of, that we have the Lake Ontario Cement plant. Of course, in the project they're trying to put together, part of the financing would depend upon having the cement plant continue to ship. Would CN be prepared to guarantee that that hookup between where the line would terminate from Picton to Trenton—that the feeder line which goes to the main line of CN would continue to be there for their use?

Mr Smit: Certainly, if we establish a short line relationship with the party operating the line, that's the whole intent: The intent would be to maintain an interchange at a location. That's why we're referring to them more and more as feeder lines, because that is the concept we have of their relationship with CN: that they become feeders, much as an airline has a smaller feeder network feeding the larger routes. That's the basic intent and that's our real interest, to make sure that the service can be continued and that we can continue to participate.

Mr O'Neil: My last comment: There's been a lot of work done by Mr Wilson and his group, and I think we want to make their plan as feasible as possible and help them as much as we can to cover a lot of these things. But the other thing is, where CN is actually disposing, say, of this particular line between Trenton and Picton, and you put it out for a bid or tenders or whatever, where you have a non-profit group like this that wants to create jobs, do something for tourism, how do you establish the price on that? Or do you actually give it away or give them money to take it? What do you do?

The Chair: Hansard can't record the smile.

Mr Smit: On a commercial basis, I guess it would really not be fair of us to take any one party and donate a piece of our assets. However, we would work with the party as long as we're convinced and we can be assured that through the whole rigorous regulatory approval process, the NTA and the OMB consider them viable and capable. We will try to work out some form of partnership. In terms of donation, no, I can't commit CN's assets in that way, but we would certainly be interested in working out some formal relationship.

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The Chair: I will now turn to the parliamentary assistant for the Minister of Municipal Affairs for any comments.

Mr Hayes: After all those eloquent presentations from the six MPPs representing all three parties, and due to the fact that this bill does not really affect Municipal Affairs, we do not have any objections to it.

However, I do have one concern, and that one is,

does this mean now that maybe the municipalities in rural Ontario will not be charged rent for crossing over tracks, or lease?

Mr Smit: I think what you could see in the short line is that in fact the municipalities would not really see much of a difference. The provisions placed on the licence that the Ontario Municipal Board grants are essentially much the same as they now enjoy. They have the same responsibilities and benefits as they now have when CN is present.

The intent is to have the new party step into our shoes as much as possible and not disturb whatever relationships have been generated now. Whether a municipality will get a better deal from the new railway is probably subject to some negotiation.

Mr Hayes: So they're still going to take the money from the municipalities. Okay, thank you.

The Chair: All right. We're at that point where I ask if the members are prepared to vote on the bills, and I will do them in numerical order.

Are the members prepared to vote on Bill Pr26, An Act respecting Cambridge-Guelph Railway Company Limited?

Mr Eddy: Agreed.

The Chair: You're going a little faster than required, Mr Eddy. Shall sections 1 through 13 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Bill Pr27, An Act respecting Georgian-Simcoe Railway Company Limited: Shall sections 1 through 13 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Bill Pr29, An Act respecting Picton-Trenton Railway Company Limited: Shall sections 1 through 13 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Bill Pr30, An Act respecting Stratford, Huron and Bruce Railway Company Limited: Shall sections 1 through 13 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Bill Pr31, An Act respecting Waterloo-St Jacobs Railway Company Limited: Shall sections 1 through 13 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Bill Pr32, An Act respecting Waubaushene Railway Company Limited: Shall sections 1 through 13 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

I'd like to thank all the participants for their time and their responses. Obviously, the members were quite interested, and as you noticed, it went through a bit more of a, shall we say, inquisition than some of the other bills that proceeded and will follow. Thank you very much for your cooperation to all, and this afternoon the bills will be reported and things will move forward quickly, I will assure you.

Ms Pennycook: We'd like to thank the committee and the sponsoring members.

TOWNSHIP OF ATIKOKAN ACT, 1993

Consideration of Bill Pr38, An Act respecting the Township of Atikokan.

The Chair: I'd now like to call the sponsor, Mr Wood, and applicants and interested parties, if you would be prepared to deal with Bill Pr38, An Act respecting the Township of Atikokan.

We're just waiting for the clerk to distribute some background information. Mr Wood, perhaps you would like to make some opening remarks and introduce your guests.

Mr Len Wood (Cochrane North): Just in opening, I would like to say that I'm proud to be here as a sponsor. This is An Act respecting the Township of Atikokan and it would enable the township of Atikokan to reduce the assessment on Valerie Falls, which is a NUG, a non-utility generating plant, that will be built to produce hydro-electric power. This is in Howard Hampton's riding and I'm pleased that he asked me to sponsor the bill and bring it forward for your consideration after first reading in the House.

Those are the comments I wanted to make. It's going to create some economic development, some jobs during the construction and the people in that area are proud of it. There's been consultation with all three parties on this and I'll ask the people to introduce themselves.

Mr David Boileau: My name is Dave Boileau. I'm a partner in the joint venture development of this project with Great Lakes Power Ltd. This project started back in 1990 through the normal regulatory approval process. It's a nine-megawatt hydro-electric project which would produce about 44 gigawatt-hours of electricity per year, which would be enough electricity to run the town of Espanola without the industrial mill. It's a fairly substantial contribution and was part of the Ministry of Energy's initiative, back in the late 1980s and early

1990s, to develop renewable resource power.

I recognize there are some difficulties within that industry now, but we started the process well before those difficulties came into effect and entered into a 50-year agreement with Ontario Hydro for the sale of our power to the grid. I believe that as time goes by that will be seen as a very economical purchase by them. I'm confident that the economy in this province will pick up and eventually all these small NUGs that came on stream will be well viewed.

In any event, the regulatory approval process obviously requires a high degree of consultation with the Ministry of Natural Resources and a very thorough review of the environmental impact of any hydro-electric development.

Our particular development was on a man-made river that was constructed in 1943 during the dredging and mining of the iron ore body under Steep Rock Lake. Being a man-made river, it was attended with a large number of environmental problems which mostly included a high level of erosion and siltation through this new river course.

Fortunately, our project was able to not only not have a negative impact on the environment, but actually had a very positive impact in that it cut off approximately 60% of the erosion that occurred in the basin of our operations.

We had very active support from the MOE inspector in the area, the Ministry of Natural Resources, fisheries and wildlife people, the Atikokan fish and wildlife group of people. We brought a lot of the local people out, including the members of council, to the site, throughout the project and generally the project was viewed as being very environmentally beneficial.

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At the beginning of the project, one of our major concerns obviously was, could we build this thing and make some money? We started to do some financial analysis of it and the main concern we had at that time was the assessment liability in terms of property taxes. We were not very clear on how it was arrived at and what impact it was going to have on the project. We originally estimated that it would probably cost about \$25,000 a year for property taxes on the project and we were reluctant to go ahead with spending any more money on it till we had a handle on it.

When we made a request to Revenue, it indicated to us that our assessment would produce a tax in the range of about \$380,000 to \$400,000, which absolutely destroyed the economic feasibility of the project, and we couldn't understand because when we started doing some comparisons with Ontario Hydro, we found that a similar project that it would construct at the same site would yield a grant in lieu of taxes payable of about \$20,000 to \$30,000.

We had to make a commitment on the road back in 1990 and early 1991 and we approached township council with our concern, that we couldn't build this project under the existing assessment method and that we felt the existing assessment method was really designed for the older hydro-electric facilities that were privately owned in Ontario. These ones had been depreciated on the OR-60 table, and they also have a low installed capacity. The impact of a new hydro-electric project within municipalities was that we were being assessed at a rate something in the range of about 25 times what Ontario Hydro would have to pay.

Our rate contract with Ontario Hydro was based on Ontario Hydro's avoided cost. As an input to their avoided cost, they use assessment under the Power Corporation Act, whereas non-utility generators fall under the Assessment Act. There are some serious inequities within the Assessment Act; at least, we feel as if there were.

There were a number of avenues open to us. One was that we could build the project and appeal the assessment method and try to get a reduction in that fashion. Unfortunately, we couldn't even talk to our financiers about financing the project with that risk and lack of comfort on their part. The second method was to see if we could get Revenue to reinterpret its method of assessment and perhaps classify captive NUGs—by captive NUG, I mean a non-utility generator that is in contract with Ontario Hydro to sell all of its power to Ontario Hydro.

We have no way of recovering any cost increases that are unusual, for instance, increases in water power rates or increases in taxes. We can't go back to the ratepayers of Ontario who pay for electricity and say, "Our costs have gone up so we'd like to raise our rates." We're in a fixed contract with Ontario Hydro.

This created a real dilemma for us. We approached town council in 1991 and explained our situation at a public council meeting. We subsequently had a number of other council meetings, and in 1991 council passed a supportive resolution indicating that it would support changes in legislation or lobby Revenue in terms of changes in the method of assessment.

At that time we felt reasonably comfortable with the risk, having township support. We really didn't know where this issue was going to go but we had to get on with the project, because as you see, in the hydro business deferrals mean delays and delays mean cancellation.

We proceeded with an investment on the road. We had to build an 18.5-kilometre road through the bush into the site, and up to that time we were not comfortable enough with it until we had some assurance that council would stay with us.

We put the file in a drawer. We were optimistic that

over the next year or so Revenue might re-examine its method of assessment.

Unfortunately, Revenue was involved with an appeal by Great Lakes Power in Sault Ste Marie on some projects that had recently been built in Wawa and it understandably was quite reluctant to amend or reinterpret its method of assessment. We felt that process would mature within a year or so and that by the time we were ready to move into construction the issue would be settled. In fact, the Ontario Assessment Review Board did not render a decision on this until, I believe, November or December 1992. That decision was quite favourable to Great Lakes Power, but it was immediately appealed by Revenue, so there appears to be a situation where it could go on for several more years before any changes are made.

We were up against a situation where we had gone to tender again on our project and had received the bids and were ready to commit to an \$18-million to \$20-million project. Our board of directors felt that we couldn't go ahead with the project under the level of comfort that we had, so we approached various ministries, particularly Municipal Affairs, Energy, Revenue, MNR and Treasury and convened a meeting, I believe in January, put everybody together and said: "We've got a project here that should be built, shouldn't be deferred, it's of economic benefit to the township. Is there some way that we can find a method of getting this issue behind us to allow us to proceed without threatening or prejudicing the existing assessment process?" The private bill method was suggested.

We went back to council, which is a new council in the township of Atikokan, and asked if it would consider sponsoring or requesting a bill for an assessment reduction. I'll deal a little bit later with the quantity of reduction and the reasons behind it. Council was very, very supportive of us. We took a resolution that was specific back to Municipal Affairs and several other ministries and started on the private bill process and we've been working very, very hard to get this bill through before the end of this session.

At the time that we made a decision to commit to the project, which was very recently, as much as, I guess, two months ago, the board of directors of Valerie Falls Power suggested that we defer the project for a year until this issue got resolved. We were very reluctant to defer the issue, simply because every deferral means cancellation, as I mentioned. They suggested that perhaps what we should do then is put in a provision within our budget to cancel the project halfway through if it turned out that we weren't successful with the private bill, because we just couldn't get the numbers up and we wouldn't be able to finance the project.

In any event, I felt that we were quite well along the way with this process and that we were likely to meet with the success that was deserved in this particular

case and a decision was made to proceed to construction. We're now in active construction on the project. Obviously, we recognize the risk of the political process, but we feel as if we've done our homework and we've done a tremendous amount of consultation with all of the parties. I think that the ministry representatives will testify to that today. We've also carried on a high level of consultation with the township in five public meetings over the last three years, with the township council and a lot of other public meetings on our project.

Maybe I'll leave that now and answer specific questions to the bill later on, but that's a general overview.

Mr Robert Davidson: Robert Davidson. I'm the reeve of Atikokan. I would like to say that the Valerie Falls people have worked for a number of years on this project and, from a municipal point of view, we were pleased to have them in our area and realized the financial restraints that they've come under and are prepared to make certain concessions on their behalf.

The project is an \$18-million project they're working on that will be probably officially opened in the fall of 1994. I think they're committed to something like \$11 million to taxes in the province of Ontario federally, provincially and municipally. It looks like a tremendous opportunity and the community of Atikokan is certainly behind them in their endeavours to see this private bill passed.

The Chair: Thank you, Mr Davidson. There are two interested parties who are listed: John Murphy and Bob Menard. If either of those two gentlemen are present, would they like to come forward and make their comments on this particular bill.

Are there any other interested parties who at this point would like to make any comments on the bill? If you would please introduce yourself.

Mr Michael Riley: Yes. My name is Mike Riley. I'm counsel with the Ministry of Education and Training, and I just wanted to make a couple of more or less general points about the proposed bill.

I think from the perspective of our ministry, just to remind the committee, a tax exemption does of course shift the burden somewhere and generally it'll shift the burden to other municipalities within the same school board jurisdiction and also to some extent to the province generally, because with respect to an assessment loss below the grant ceilings for education purposes, this loss will be compensated for by provincial grants.

That, I suppose, is a fact known to most members of the committee, but I think we see this piecemeal approach, nothing specific to this particular bill, but generally the approach of tax exemptions for school purposes, to be not a good one, the private bill route. We would very much like to see a more systematic

approach to these tax exemptions, perhaps by way of amendment to the Assessment Act or by some other general approach to this problem, because it's a haphazard and uncontrollable sort of event from our ministry's perspective.

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I'd just also add that in small northern boards, relatively small assessment shifts can have proportionately large impacts. My information is that the impact in this instance would be on the public board only. That's neither here nor there as far as—whether the school taxes are shared fairly or not, or how they should be shared, is another issue altogether, I admit, but just for information purposes.

Those are my comments. As I say, they're more or less of a general nature, that we see this as not a good thing.

Mr Eddy: I wanted to ask Mr Riley a follow-up question on what he has just stated.

The Chair: That's fine. You may ask your question of either the deputants or the ministry staff, and the Ministry of Municipal Affairs is also represented. Mr Hayes just had to make a phone call.

Mr Eddy: Yes, this is specifically with what was just stated.

The Chair: Very good. Mr Eddy, you have the floor, as a matter of fact.

Mr Eddy: I didn't need to argue that one.

I want, first of all, to ask Mr Riley a couple of questions in view of his stated views at the present time. I don't know what would be required to carry out this suggestion. He's saying it's a piecemeal approach, but how does he answer the point that if Ontario Hydro were to proceed to build this—and first of all, it isn't a loss; it's going to built. So it's new assessment. Okay? That's a new assessment that's coming in. How does he answer the fact that if this facility was built by Ontario Hydro, it indeed would not produce the taxes that we're looking at? It would be a grant in lieu based on a formula, so why can't we be equal?

Secondly, if it was the township that was building this facility—and, let's face it, there were many of these generating facilities in Ontario at one time. Unfortunately, they were bought up or taken over by Ontario Hydro and closed up, and here we are clawing our way back, so to speak, and that's another story. But if it was built by the township, it would be tax-exempt. He's saying we shouldn't approach this on a piecemeal basis, but I tend to think with hydro generating plants, we've already got a disjointed system at present; indeed that's discriminatory. I wondered if he agrees with me on any of those views.

Mr Riley: I think I can to some extent. I don't want to pretend that the existing system is entirely equitable, even given the general rules. I think those are fair

comments.

I would just say, though, that I think to further complicate and differentiate by way of private legislation is something that tends to exacerbate rather than remedy the problem. But I can't deny what you're saying. We don't defend that, nor do we have control over the assessment system generally, but we are very much affected by it.

Mr Eddy: Just to follow up then, what would you suggest? Would the answer be to look at hydro generating plants as a separate entity and have a separate section in the Assessment Act—I guess that's where it would be—regarding them, so that all would be on an equal footing of some kind, and there might be, of course, a need to differentiate some, but to put them on a more or less equal footing? Or what do you suggest?

Mr Riley: I would think in so far as a general rule can be adopted, that would be a good thing. We don't make policy in that area, but just to have general rules that cover the broadest number of cases would be good.

Mr Eddy: Thank you.

Mr David Johnson: Just perhaps a question to the reeve. I understand that you've indicated that there is community support for this application. We have a letter before us from CUPE Local 1000. I think it is here somewhere. Is that the union that's associated with your municipality?

Mr Davidson: That's correct.

Mr David Johnson: Do they remain opposed at this point?

Mr Davidson: I would think not. I think the Valerie Falls people have met with them, as they have with other organizations, and they've done a tremendous job in smoothing over the rough spots. I think they're quite receptive to the notion that it's good for the community, including themselves, because they're part of the community at the present time.

Mr David Johnson: I couldn't quite understand the opposition. I think their concern was simply the loss of revenue, I gather, in the first instance, to the municipality. Is that essentially the concern?

Mr Davidson: I guess probably to give you a little quick view on the background, we've just recently had to put the public works department on a four-day workweek over in Atikokan to come up with a deficit situation that we had a hard time grappling with and, for those reasons, those points were probably made there. That's the only way I can figure that one out.

Mr David Johnson: In terms of your support and the community support, it's primarily from the point of view of the job creation. Is that the—

Mr Davidson: The potential for job creation there is tremendous. Not only that, I guess it's just short of \$1 million worth of tax revenue that the municipality will

enjoy over the next number of years when the project becomes viable and on stream.

Mr David Johnson: Sorry. So there's how much revenue? Of course, you're looking at retaining at least 25% of the taxes.

Mr Davidson: Yes. I think the figure's just over \$900,000, something like that.

Mr David Johnson: So when you're talking about \$900,000, you're talking about the remaining 25% or whatever it is that you retain. Is that what you're talking about?

Mr Davidson: No. I'm just talking about the tax revenue that the project will generate to the municipality by its being located on that site.

Mr David Johnson: But the application is to exempt some of that.

Mr Davidson: Yes, that's correct.

Mr David Johnson: Are you looking at the exemption of three quarters?

Mr Davidson: It's about that, yes.

Mr David Johnson: Maybe this would be more to the applicant. In the letter from CUPE, and maybe I'm taking this out of context, but it says it will employ only one or two full-time employees. You must have read this letter. What on earth do they mean by that?

Mr Boileau: Maybe I should comment on a few of things in the letter, Mr Johnson. The tax payable that is proposed under the reduction would work out to \$100,000 a year. The assessed method that's currently in place would yield about \$400,000, so the 75% reduction would yield \$100,000 which, I guess to put it in an equivalent tax base, would amount to the same as 70 new homes being built in a town that has about 1,300 homes and contribute significantly to employment from the tax base as far as municipal employees, and certainly help council out with some of the budget deficits that they're having now, because it is a new assessment.

Secondly, there's no cost to the municipality for this project. We're 45 kilometres from the town. The road was built and will be maintained and snowplowed by Valerie Falls and we have no demand on the town for sewer or water or any type of other services, police or fire services, because it's not practical to provide it out there and it's certainly not within their mandate to provide it to us. So it is brand-new assessment.

In regard to your question about the full-time jobs, it's estimated that the entire project will create somewhere between 65 and 100 person-years of employment. We are very pleased that the contractor of this particular contract is a union contract with a civil contractor and we're very pleased that they have made a sincere effort to hire locally.

The reason they're able to do it is because it's a non-

ICI job or a non-industrial-commercial-institutional job. The labourers' union, the operating engineers, the carpenters, formers and all these other fellows, there's a fair number of them who are unemployed in Atikokan or have had to work a long way out of town and they're on the books in the Thunder Bay local and almost without exception, other than some of the supervisory people from the constructor, they've all been hired from Atikokan, and it appears as if the main hirers for the carpenters and joiners, when they start pouring concrete, will be from Atikokan.

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Mr David Johnson: You're talking about the construction of the project itself?

Mr Boileau: The construction phase, yes. I find a lot of people focus on the long-term job aspects of these projects, but the skills that are developed—activity generates sales. At least, that's what I've always found in business. Yes, it's true. These hydro-electric projects, when completed, don't generate a whole bunch of jobs. There's not enough money in them to—

Mr David Johnson: Is that the one or two? Is that what they're talking about when they say—

Mr Boileau: There could be one or two full-time jobs and there would be some contract jobs, Mr Johnson, that would come out of it.

The other aspect of it is, and Reeve Davidson alluded to it, was the taxes payable to the province over, I guess, a 15-year period. We calculated it between the province and the federal government with capital taxes of \$52,000 a year, water rental payments starting in year 10 of \$391,000 a year. Provincial taxes and all these other things amount to about \$13 million that we're contributing in the 15-year period, all out of private capital.

The only funding that has come from the public on this project was a \$179,000 road grant. We paid \$179,000 and the Ministry of Northern Development and Mines, through Shelley Martel's ministry, paid half. That was for constructing the 18-kilometre road. The reason was, we piggybacked on top of a northern Ontario regional economic development grant and we had the support of the Ministry of Natural Resources geological representative; Boise Cascade, the forestry people; and the tourism people. Everybody was quite happy to see that road built, and we turn it over to the province when we're finished.

Somewhere in this letter he makes a reference that the project will cost \$18 million to build with 50% of the funding coming from Northwestern Resource Development. We haven't received anything. Other than that \$179,000, this entire project has been financed by private capital.

Mr David Johnson: Essentially, I guess the exemption here today then would save you about \$300,000 a

year then, roughly? That's what we're talking about?

Mr Boileau: It would. In the absence of it, the project wasn't feasible.

Mr David Johnson: Can you give us just a couple of words in summary as to why we should believe that?

Mr Boileau: When we first did our financial projections—and we have submitted some copies to various ministries—our revenue on the project worked out to about \$2.7 million a year based on 44 gigawatt-hours of production. That estimate of production was based on hydraulic records dating back to 1926 and produced by Acres International and Monenco, two of Canada's largest hydro-electrical engineering firms, so we have a lot of confidence in that number. That \$2.7 million represents the total income from the project and from that we have to pay down a debt of \$18 million to \$20 million. We have fairly high operating costs with respect to water power rentals, site maintenance, insurance, municipal taxes and everything else.

When we ran our numbers based on a municipal tax of \$50,000 a year, we ended up with an internal rate of return on 15 years of 8.1%. I'm not sure how familiar the committee is with trying to finance high-risk hydro-electric projects. Hydro-electric projects are fairly attractive for financing, as far as everybody saying they want to do it, but the risk dollars that are required usually mean that there's about 2% or 3% more charged to the development, simply because there are so many problems with construction delays on working in water.

When you're finished building this thing, you pray for rain. If you get two or three years of poor rainfall, then you have to set aside an enormous reserve account to keep the bank happy. In order to finance a project and to take it to conventional banking sources without selling our soul to try to get the darned thing built and ending up not owning anything, we require an internal rate of return of 14%. That may sound like a lot, but if you try to build some of these high-risk capital projects, it isn't.

When we ran our numbers, we needed a 30-year protection. We also required a reduction which we hoped would be a lot more than 25%. However, we've been in this thing for three years. We were anxious to get to construction. We felt as if we were going to lose another year because of the delay on this thing. We are willing to make some moves to put it behind us as quickly as we possibly can and we're also willing to make the commitment to the province of Ontario to build and create some jobs this year, not next year or anything else.

The Chair: Are there any other questions of the deputants? I would like to turn to Tom Melville from the Ministry of Municipal Affairs to report on the ministry's objections, if any.

Mr Tom Melville: We have no substantial objec-

tions to this bill. There are two motions that we would like to bring forward at the appropriate time.

Mr David Johnson: I was wondering in terms of the boundaries for various facilities seeking assessment exemptions. We see the humane society that comes up later, the seniors' facilities, community centres, private hydro facilities. Are there any boundaries in terms of who can seek an exemption?

Mr Melville: In response, anyone can apply for an exemption.

Mr David Johnson: I had this sense somehow that there were determined facilities that could be eligible. That's not true?

Mr Melville: There is Ministry of Municipal Affairs policy on qualifying applicants, as it were, for tax exemptions, which I can obtain for you in a few minutes, but basically they include certain criteria such as are they a charitable organization, do they own and operate the property and so on.

Mr David Johnson: Well, this is not a charitable organization.

Mr Melville: No.

Mr David Johnson: What sort of definition would this meet that would qualify it?

Mr Melville: Perhaps Bill could answer that.

Mr Bill Robson: My name is Bill Robson. I'm with the Ministry of Municipal Affairs as senior policy adviser.

To try to respond to that question, the first thing is, we had a number of interministry meetings with a number of ministries such as Municipal Affairs, Revenue, and Education to some extent. I think we would have not supported the exemption, but we have recognized that in the sense of assessing hydro-electric projects, there is quite a distinction. The point made earlier is quite correct. This project, as an Ontario Hydro project, the tax responsibility would be about 10% of what it is going to be as a private utility.

The reason this hasn't been quite as much of a problem up to now is because there hasn't been much in the way of private utility generating stations going into place. There are some coming forward, but the ones coming forward are generally gas systems. The capital costs on those are much lower, so with our assessment system, we don't foresee that as a problem. Under the gas system, the property tax responsibility would be about 30% of what it is for this hydraulic system, which is a water-powered system.

We are establishing an interministry task force to look at assessing hydro facilities and the gas utilities and even private ones like this. We'll probably, in the future, come up with a completely different system to assess them, but in the intermediate period, we have this problem that this particular one is going to go forward.

So although we would have been normally reluctant to support this at all, we are being supportive because of the difference in the treatment of the different type of systems.

Mr David Johnson: I was just curious, because this is a private company, and I would have thought that very few private companies would qualify in general. But you're saying that because this is involved with the generation of electricity, that's a little hook that allows it to meet your approval. Normally, private businesses in other fields, for example, would not qualify for tax exemption, would they?

Mr Robson: Well, as Tom indicated earlier, we'd have to look at each situation, but I think the important thing here is that we do recognize quite an inconsistency in the net result, so we are going to work towards trying to address that. But for the short term, the view was that we should try to see if we could make this situation more comparable to the other ones, the other ones being Ontario Hydro and—

Mr David Johnson: When I was mayor, I had a whole lot of companies that came to me that were on hard times, that were not able to pay any of their bills, including their tax bills, I guess. If they thought they could be exempted, they would have been delighted. They would have joined the long lineup. But I didn't assume any of them were eligible.

Mr Melville: Again, just to respond quickly, I think the point that Bill Robson is making, in perhaps simpler terms, is that the hydro generation facility is a special case because of the existing assessment arrangements for hydro facilities of that nature. In respect of other matters, we look at them on a case-by-case basis, but we do have ministry criteria and, as you say, ordinarily a private business we wouldn't approve for a tax exemption.

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Mr Eddy: I'm certainly delighted to hear that there's an interministerial committee looking at this whole picture, because it's timely and it's needed. We need to get on with it.

This is a water-powered, generating hydro-electric commission. I'm very strongly in favour of that and I think there needs to be more of it.

I'd like to also point out that if it was a municipal endeavour, it would be tax-exempt. I think that's right and I don't know whether there are still any of those that are in operation, but I expect that would be the case, other than the other taxes, of course.

So I realize that this is a special case. I'm strongly in favour of it because of what it will do and what the operation is. I think we need, in time, a lot more of them. Oil may run out; gas may run out. That's a long way away, but the water, hopefully, will always run. It's water-powered, so this is a real plus. I think we should

support it. I'm in favour of it.

Mr Hansen: I just wanted to get on. I don't think there's any disagreement here. I want to support this bill. I think we have one more applicant to deal with.

The Chair: That's true, but there's always some interesting questions and new knowledge that is obtained as a result of these questions. So as this education process continues, I would then turn to Mrs MacKinnon.

Mrs MacKinnon: I apologize. I had to be out of the room for a while on a telephone call. Are we setting any precedent here by agreeing with this?

Mr Robson: We probably are, but I'd like to think that we're not. So to try to answer that, there is a fairly large surplus of hydro power at the moment, so the likelihood of a lot more private systems coming into being should be quite limited.

At the moment, there are about 15 projects that are to move forward, but none of them is in the hydraulic water situation that this one is in. The other ones are more of a gas type. Hopefully before even those other ones come into being, we will have resolved how we are going to assess the hydro generating plants on a consistent basis and there won't be a need for this type of exemption.

It's a kind of a double answer I'm giving you, but we're hoping that this problem will be resolved long before the next project moves to completion that would be in this type of situation.

Mr Boileau: Perhaps I can comment on the precedent side of it, because there was obviously a concern—and it's being raised here—to the municipality and to MMA.

Any time there's an assessment reduction in private industry there should be a concern, because we don't want to see a situation developing in this province—and even as a businessman I wouldn't want to see a situation developing—where a business could pick up and play one municipality off against the other. But we're not able to move the river. We are a captive to the river. It happens to be on the outer boundaries of the municipality. If we didn't like dealing there, we just can't pick it up and go anywhere else.

It's a situation where, in the last 50 years since the river was diverted, there's been in excess of \$100 million of water that's fallen over those falls that could have generated substantial revenues for the provincial treasury, both in terms of water-power rentals and income tax, and also for our federal treasury. We plan to capture it now and start putting that money into the economy. Certainly we expect to make some money from it so we can continue on with some other developments, but we can't move the river. We have to build it there, and the capital costs of building it are just absolutely tremendous and everything has to go in up

front. I hope that answers that question as far as precedent.

Also, just one other comment: Any private business that can get through this private bill process without having a heck of a lot of good reasons behind it for getting it passed, I wish it luck, because this has been a long, tough process for us. We've had excellent cooperation from all of the various ministries and I think certainly a very sympathetic ear and understanding of the difficulties that we face with some of the methods of assessment that have been here. I'm very pleased to have been working with these people in resolving this problem and pleased also that it shows that the system does work if you stay with it.

The Chair: I think I will now ask the question that Mr Hansen may have wanted me to ask a few minutes ago, and that is, are the members ready to vote?

Shall section 1 carry? Carried.

Shall section 2 carry?

Mr Mills: I have an amendment, Madam Chair. I move that section 2 of the bill be amended by adding the following subsections:

"Maximum period

"(5) A bylaw under subsection (1) shall be in force for a period not to exceed twenty years as set out in the by-law.

"Re-enactment

"(6) Despite subsection (5), the council of the corporation may re-enact a bylaw under subsection (1)."

Madam Chair, this will technically require the municipality to reconsider bylaws in 20 years.

Mr Boileau: I recognize the reasoning behind the proposed amendment; however, I would like to object to it on the basis that we placed our cards on the table up front; we gave all the ministries as much financial information and we communicated up front with the municipality as best as we possibly could.

The 30-year term we requested was not as long as what we anticipated. We have a 50-year contract with Ontario Hydro, and our provisions for dry-year facility funds and other things could very easily push us over the 30 years. In addition to that, many of the members who were involved in this whole process were not aware that in order to finance the project, we had to ask Ontario Hydro to put some money in our rate up front and take it away from the back end; in year 20 to year 30 we lose 25% of our rate from Ontario Hydro and in year 30 it goes back to normal. So there is a very significant financial difficulty for us right up to the 30-year period. In addition to that, the last provincial budget has tripled water-power rental rates, which has again created a serious problem for us because we can't go back to the public ratepayer and say we need more money.

I would suggest that the requirement for this amendment is minimal and that this act only empowers the township to pass a bylaw. The township could even decide not to pass a bylaw, period, or it could impose any conditions upon us, whether it be a review in five years, 10 years, 20 years, or to stand with what this bill is giving us. They could also impose other conditions that may be of benefit to Valerie Falls or to the municipality. We're very prepared to work with the township in developing a bylaw that is responsible and also establishes some floor prices.

I would ask the committee to consider allowing the township to work within the bounds of this bill and allow us to go back to our financial people and say, "Yes, we have a bill that gives us the 30 years, which is what we presented to you guys for comfort." I'd please ask you to consider allowing the township to determine that through the bylaw.

Mr Eddy: I'd like to ask Reeve Davidson the wishes of the elected council of the township of Atikokan regarding the time.

Mr Davidson: That time frame was discussed and, as Mr Boileau was saying, we did talk about the 30-year plan. With the uncertainty in the economic future, as we all know today, our council isn't comfortable with that arrangement. It's the arrangement we did make in Atikokan.

Mr Eddy: So you support the 30-year term.

Mr Robson: To comment on the motion, I think the point made is correct, that the bill as it now stands does give the right to give the exemption for 30 years and subsection 2(4) does allow council to put whatever conditions it wants into the bylaw and it has the flexibility to change even the exemption rate in subsection 2(1). But the reason this motion came forward, and it's up to the committee to decide what its position is on it, is that at the interministry level there was some discussion about the fact that this project has a heavy capital cost up front, \$18 million up front. We're giving the exemption because it is a very costly facility being created and the assessment as a result becomes very large because of the facility being created.

But it was also pointed out that the financing arrangement to cover this upfront cost will be amortized over a 15-year period. There was some concern that rather than the 30-year period we put in the bill, maybe we should restrict it to a 15-year period, as the full capital costs should be amortized over the 15 years, which is the best financing period they could get; in fact, they might have to even use a 10-year financing period, depending on the flexibility of the financial institutions.

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So there was more discussion. It was indicated that Valerie Falls would be very reluctant to have a 15-year term, so as a compromise, this proposal was put for-

ward. As there is a lot of uncertainty about what's going to exist down the road, 15 or 20 years and so on, even though there is this flexibility for council looking at it any time, to try to give some direction is what was indicated in the bill: Should we give consideration to having a mandatory review at a 20-year period so the risks of the situation for the next 10 years could be looked at, to continue the exemption or to change the exemption? It's just a question of whether we want this type of directory reference in the legislation.

Mr David Johnson: Who drafted the bill that's before us today: the applicant or the staff?

The Chair: I believe it ends up being a joint effort.

Mr David Johnson: The reason I ask is because it obviously has the 30-year period in here. If you had involvement in drafting this in the first place, you must not have been too opposed to the 30-year period, or why would you have permitted 2025 to be in the draft? I'm looking at the draft, and it says that the act is repealed in December 2025. This apparently had the blessing of your staff, did it?

Mr Robson: We're supporting the 30-year period as the full life of the bill, but we're recognizing that circumstances could change and that exemption could be removed at any point in time.

Mr David Johnson: Then what does the 20-year period amend, in the amendment?

Mr Robson: It respects the term of the bylaw that can be issued at the beginning of the process. At the beginning of the process, the law that is initially issued to grant the exemption cannot give an exemption for longer than a 20-year period. That's what this amendment is proposing.

Mr David Johnson: All right. I'm not sure I assume that, but let me ask one final question. In view of the fact that the municipality is supportive of the longer term and in view of the fact that you're saying "on the one hand and on the other hand," are you opposed—

Mr Robson: We're supporting the longer term also. We're saying, should there be a review during that process?

Mr David Johnson: Then you're saying that in terms of this amendment that's before us today, you wouldn't be displeased if we didn't support the amendment.

Mr Robson: We're recommending the amendment.

Mr David Johnson: I'm totally confused now, because the amendment says "shall be enforced for a period not to exceed 20 years."

Mr Robson: Yes, but what does the next subsection read?

Mr David Johnson: Despite the subsection, "the council of the corporation may re-enact a bylaw under subsection (1)."

Mr Robson: That means they can go for up to 20 years and then can continue to re-enact the bylaw as long as the bill is alive.

Mr Boileau: Just to comment again, I had a conversation with Ron Young over at the Ministry of Revenue yesterday. I'm not sure where the concern on the 20 years came from, but I believe there was not active knowledge about the bite-back in our rate with Ontario Hydro, and that may have prompted this.

The amortization period for our project represents a fairly fast pay-down of the capital when you consider some of the contingencies and the risks and the reserve accounts we have to carry. The shareholders of this project, myself and Great Lakes Power, are not anticipating very equitable dividends from the project until after this period comes. At the end of 15 years, presuming it's rained on average every year and we haven't run into some problems, we may have five years of grace until we lose 25% of our rate.

The way we did our calculations—and I'll repeat. These were the numbers required by our financial people to put this package together. If we have to go back and say we're exposing ourselves to a review after 20 years even though that's still available to the township within a bylaw—I guess it is our job and Municipal Affairs' job to develop that bylaw and see if we can't get it passed, but if there's a review, our financiers are just going to look at this and say, "You don't have 30 years, because we have to take a worst-case scenario; you've got 20 years," and that's the way the numbers are going to come out.

It is a very serious concern to us, because I've put a lot of my own private capital into this project and I don't expect to see a lot of money come out of it, but I'm not sure how exposed we want to be on this thing in years 15 to 20 because it could be very, very serious.

Mr Eddy: Sorry to prolong the matter, but it is important, and I'm opposed to the amendment. I think it should be left at 30 years. The applicant wanted it; it has been negotiated; the municipality agrees with that; we have counsel from the ministry agreeing with that. Also, in view of the fact that the municipality can review the matter in its bylaw, I expect that the Legislative Assembly, this committee, could review the bylaw. Thirdly, there is an interministerial committee that I'm very pleased to hear is going to be working on the whole matter of assessment of water and other hydro-electric generating facilities which indeed may affect this situation, and I really would wish it speed on what it's doing. I think it's all in place, so I'm certainly in favour of the 30.

The Chair: Did you have anything else to say, Mr Hayes?

Mr Hayes: Very little, Madam Chair, but without this amendment, that means the municipality does not

have to review this agreement in 20 years, is that correct? It would be of benefit to the municipality, I believe, without adversely affecting the applicant. That is one of the reasons it allows it; it says the municipality must review it. I think that's important. That's all.

Mr Eddy: I'm not clear on the point of view that's been expressed. I'm sorry, I guess I didn't quite hear. Is the parliamentary assistant supporting the amendment from 30 to 20 years, or willing to go along with the 30 years?

Mr Hayes: It is for 30 years, but at the same time it's saying that the municipality must review it in the 20-year period. That's what we're saying.

Mr Eddy: I didn't understand the amendment that way. The amendment really doesn't have that intent, it seems to me. I would have no problem with requiring the council of the township of Atikokan to review the matter every five years or every term or something; it can anyway. If it's a necessary requirement, that's separate, it seems to me, from the term that's being proposed for the possible life of the bylaw. I think they're two different things. If the ministry feels that the local elected council should review the matter on some basis every five years, as you have to in your official plan or something like that, that's no problem, because it has that right anyway. But allowing the bylaw to be in place for the 30-year period is a different matter, and I support it. Thirty years isn't very long, you know.

The Chair: I won't make any comment on that one. I will continue with the vote at this point. The motion has been duly made and we've had some discussion, so all those members who are in favour of the amendment as it was read by Mr Mills? All those against? The motion carries.

Shall section 2, as amended, carry? Carried.

Mr David Johnson: So the Chair supported that motion? I just counted, and—

The Chair: No, it was not a tie.

Mr David Johnson: I see. I was counting the hands over here.

The Chair: Shall sections 3 through 5 carry? Carried.

Shall section 6 carry?

Mr Mills: I have an amendment.

I move that section 6 of the act be amended by striking out "2025" and substituting "2024."

The Chair: Any discussion on that?

Mr Mills: Housekeeping.

The Chair: All those in favour of the amendment, please signify. All those against? The motion is carried.

All those in favour of section 6, as amended? Carried.

Shall section 7 carry? Carried.

Shall the schedule carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

I'd like to thank you for your participation and your patience. It's sometimes a longer process, and I appreciate your coming before us today.

Mr Boileau: Thank you, Madam Chairman, and thank you, committee. We'll get on with building it.

The Chair: Very good. I know the members in the north will be very pleased with that economic activity.

Mr Wood: I'm expecting 12 more projects within the next couple of years within Cochrane North.

Mr Hansen: I didn't understand when I flew over Atikokan. It is the land everybody applauded on the plane.

The Chair: Yes.

Interjections.

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HUMANE SOCIETY OF OTTAWA-CARLETON ACT, 1993

Consideration of Bill Pr82, An Act respecting the Humane Society of Ottawa-Carleton.

The Chair: We have Pr82, An Act respecting the Humane Society of Ottawa-Carleton coming before us. Mr Eddy will be acting as the sponsor on behalf of Mr Chiarelli, and we have Mr John Hamilton, the executive director of the Humane Society of Ottawa-Carleton, as the applicant, if he would come forward. Mr Eddy, perhaps you would like to make your opening remarks and then turn it over to Mr Hamilton.

Mr Eddy: I appreciate the opportunity to appear before this committee and say a few words at this time.

The Chair: No comment. We're counting.

Mr Eddy: On behalf of Bob Chiarelli, MPP, it's my pleasure to introduce John Hamilton, the executive director of the Humane Society of Ottawa-Carleton, who is presenting a bill which would exempt certain land and premises from taxation for municipal and school purposes. Thank you. Now I'll go back to my den.

Mr John Hamilton: I'd like to begin by stating up front that the humane society has occupied the lands and premises since 1967 and in fact was never taxed on those lands and premises up until 1991. What we're really seeking here is a return to the status quo rather than an exemption from existing taxes. We're not eroding the tax base. We are, as I mentioned, seeking a return to the status quo.

It appears as though the decision to tax in 1991 was as a result of an administrative decision that the municipality could tax us, and as a result of the province-wide reassessment brought about in some way by a 1985 Supreme Court ruling against the London Humane Society that a local affiliated humane society was not eligible for a tax exemption under the OSPCA Act.

We're not seeking an exemption under that act; we are seeking an exemption as a registered charity under the Assessment Act.

Let me be very clear that we have support from the local authorities affected, whose tax base is affected. Number one, the Ottawa Board of Education supported the bill at its meeting on December 16, 1991, evidence of which you have in the compendium. You also have in the compendium evidence from the city of Ottawa supporting the act from its November 6 and 7, 1991, meetings. The region, as a matter of policy, does not consider these applications or exemptions and refers them back to the municipality, which is really the intent of what we want you to do through this bill as well.

Let me also state that the exemption meets all—let me repeat, all—of the Ministry of Municipal Affairs criteria, in that the humane society owns and occupies the property in question; the humane society is a registered charity under the Income Tax Act; the exemption applies to property taxes and not others, such as local improvements; the governments whose levies are affected have given their approval; and the exemption will be granted through a bylaw.

We are a registered charity under the Income Tax Act and at least as worthy as others who have received similar exemption, such as the Boys and Girls Club of Ottawa-Carleton and the civil service centre for recreation. So it is not a precedent.

The humane society also provides essential services and in fact acts as an agent of the municipalities in question by operating a pound for animals and ambulance service for animals. It provides a shelter, operates investigations and prosecutions into animal care, serves as licensing agent and picks up strays in the region. If these essential services are not provided by the society, they'll have to be provided by the city at a higher cost to the taxpayers.

The humane society also provides broad social benefits in the region by other programs such as our companion animals program, where we visit elderly and institutionalized persons, providing them companionship, fighting against loneliness and isolation. We provide a humane education program to elementary school-aged children on proper pet care. We reunite lost pets and their owners. We offer a pet-a-cat program which trains people on how to care for pets and provide veterinary services for sick and injured animals. We maintain a database of pets through a microchip identification program and we also shelter and place homeless pets.

At worst, the exemption we're seeking would be possibly revenue-neutral. If we are forced to curtail our activities, our essential services due to lack of funds, the municipalities in question will have to expend tax money to provide those replacement services, more than offsetting any tax revenues. It is most efficient and cost-

effective to have one body, the society, provide these essential services.

Let me repeat that this is a return to the status quo, to empower the municipality, the city of Ottawa, to exempt us from taxation.

The Chair: I hope members take the opportunity to go through the package of information that the clerk has put together, because it appears that we have at least one objection to the application. I will do my duty here and ask if there are any interested parties who wish to come forward at this time to speak on this bill. Seeing none, I will turn to Mr Mills who had a question.

Mr Mills: It's not so much a question but a comment. You can tell by my accent where I'm from. I have long supported any society preventing cruelty to animals, not only vocally but with my money as well. I don't think there are too many people who originate from the British Isles who are not very concerned about animal welfare and the wellbeing of animals. Earlier, I said I was in a hurry to get out of here, not because I had no interest here, but believe it or not I have to go to a meeting with Barnum and Bailey about some proposed legislation about circus animals, just to let you know where I'm going.

I understand that the presenter didn't really know until a short time ago that there would be some opposition to this. It's unfortunate that the lawyer who represents you is not here. I have some empathy with the position you find yourself in, but I'm obligated to speak on behalf of the Solicitor General in that we do not support this, because at the moment it's my understanding that the sort of headquarters of the society is given some sort of tax exemption but that this tax break is not an offload towards the affiliates.

I can see and our ministry can see that this will present some considerable problem. We think, speaking on behalf of the ministry, that this really is a matter to be dealt with by the government as a whole. I'm not saying it shouldn't be dealt with, but that's really the way it should be dealt with, as opposed to this type of bill here. I have a lot of empathy with your coming here, and not knowing that until just now, I believe.

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Mr Hamilton: Can I respond to that statement, Madam Chair? We are not seeking the exemption under the OSPCA Act. Although that certainly appears to be the intent of the act, we're not going to argue that. We are seeking an exemption under the Assessment Act, section 3, paragraph 12, that provides for exemption to a registered charity, which we are. In that sense, we are not setting a precedent either. We're just asking for treatment equal to that given to other charities, such as the Boys and Girls Club of Ottawa-Carleton or, like I say, the Ottawa Civil Service Recreational Association facility.

Mr Eddy: I think the point was made by the applicant that this is a service for and on behalf of the municipality. That's very important because if they don't do it, the municipality kicks in and will have to do it. We have the taxing bodies that are affected by this decision in agreement with it, so I think we should proceed. I'm very much in favour of it, realizing again that if it's taken over by the municipality, it immediately becomes tax-exempt and the municipality will have to operate the facility and provide the service. I think it's important to let, again, the elected people in the given area make the decision on this. I'm certainly in favour of it. Let's get on with it. I'd be prepared to move, in order to save time to allow Mr Mills to get on with his other animal—

Mr Mills: Animal activities.

The Chair: I think it's wise not to pursue that.

Mr Eddy: —responsibilities, to move approval of the bill.

The Chair: I think it's appropriate that we turn to the parliamentary assistant for Municipal Affairs and ask if he or his ministry has any comments to make on this proposed legislation.

Mr Hayes: We do have some concerns about this. Mr Mills has certainly touched on some of those. We feel this would be setting a precedent, especially wanting the amendment through the Assessment Act, and also it's another one of those types of requests that I think the government really should be taking a look at and deciding whether to make changes as a whole on this particular issue.

There are some concerns from the Ministry of Education and Training and I'd like, Madam Chair, if you would refer to Mike Riley.

Mr Riley: I can do little but support the comments of Mr Mills. We too are very concerned about the precedential value of the proposed bill. What we foresee is that if this is granted, other affiliates—not the parent body—around the province will see it as a precedent. They too will be in a position to seek exactly the same type of treatment.

This is a concern that places, I think, this matter on even a different footing from our normal concern about private legislation accomplishing tax exemptions generally. It's one thing where it's more or less a one-shot deal, a single type of entity or institution in one location in the province. But where it's a somewhat larger organization, organized as the OSPCA and its affiliates are, I think we really believe that the private bill approach is especially inappropriate for this type of relief.

Mr David Johnson: I'm just trying to get my mind around what is considered a precedent. Is it considered a precedent because this is a humane society? I'm thinking that earlier in the day we looked at a private

company, albeit hydro generation. Before that, we've looked at other facilities. I think they were the sisters of something that got an exemption a week ago.

Mrs MacKinnon: No, they didn't get it.

Mr David Johnson: That's right. They didn't. But some do and some don't. In my mind, I can't figure out what is a precedent and what isn't. Can you clarify why this would be a precedent?

Mr Hayes: With my information, it would be a precedent because this would be the first humane society that we would give this type of exemption to.

The Chair: Mr Johnson, just as a point of information, Mr Melville previously had indicated that he would be trying to provide you with some criteria as to what in fact are the considerations when any of these tax exemptions are brought forward to the ministry. If I may proceed for one moment, or if Mr Melville would like to come forward to one of the mikes just to reiterate his comments, you indicated that charitable status was one of the criteria. There may be others which at this point we're all unaware of, but that was one issue that was consistent.

Mr David Johnson: I'd appreciate his guidance. I understand from the applicant that they consider themselves to be a charitable and non-profit organization, and from comments earlier.

Mr Hamilton: We are a registered charity.

Mr David Johnson: Perhaps in Mr Melville's comments, he might address the fact that the humane society considers itself to be a registered charity and a non-profit organization, and then why is that a precedent.

Mr Melville: These are separate questions. First of all, I'll give what the ministry criteria are in respect of exemptions. The first is that the organization own and occupy the property. The second is that the organization be a registered charity under the Income Tax Act, as was mentioned by the applicant.

Mr O'Neil: Could you mention, as you go along, which of these they comply with and which they don't comply with?

Mr Hamilton: In fact I have a copy of those criteria, and we do comply with all five of those criteria.

Mr Melville: I'll go through them, and then there's some additional information I'd like to give you.

Thirdly, the exemption would apply to property taxes only and not to other local charges such as local improvements. I would add that property taxes normally mean both municipal and school taxes, and I think that's important in this case.

Fourthly, the consent of the upper tier, if there is one, or the school board is to be obtained if the bill provides for the exemption of their levies. I understand that in

this case the school board has given its consent. The upper tier has been—

Mr David Johnson: Silent.

Mr Melville: Silent.

Mr Eddy: Correction. I don't think that's quite correct.

Mr Hamilton: As a matter of policy, the upper tier does not consider these requests.

Mr Eddy: That's a little different. Thank you.

Mr Hamilton: It's very important to notice the distinction between refusing a request and refusing to consider the request.

Mr Eddy: It's policy in the upper tier in the face of the regional—

Mr Hamilton: They refer it back to the municipality, in which case the city of Ottawa has approved the exemption.

Mr Melville: It could be put as, "There is no resolution from the upper tier approving it."

Mr Eddy: That's becoming overtechnical. The main part of this is that the council of the regional municipality of Ottawa-Carleton has had the opportunity to refuse it or indeed approve it and it has elected to say it goes to the local municipality. The local municipality has jurisdiction, and that cannot in any way be construed as objecting to or opposing the application. It's as simple as that.

Mr David Johnson: Mr Melville was on the floor, though, and he was going through it.

The Chair: Passion sometimes takes over. What can I say? Mr Melville.

Mr Melville: Thank you very much. The final criterion: The exemption is to be granted through municipal bylaw rather than directly in the bill, and that's indeed the case with this bill.

You asked what was a precedent about this bill. I think it is relevant to know that under the Ontario Society for the Prevention of Cruelty to Animals Act, and perhaps the applicant can correct me if I'm wrong, there is a tax exemption in respect of municipal taxes but not school taxes.

Mr Hamilton: No. We have never been assessed municipal nor school taxes from the time we occupied the premises in 1967. So we're not applying for an exemption from former taxes, we're applying to keep the status quo. We're not applying for an exemption under the OSPCA Act either. We're applying for an exemption as a registered charity.

Mr Melville: Yes. I'm not speaking to your organization, I'm speaking to the legislative policy set out in the Ontario Society for the Prevention of Cruelty to Animals Act. In that act, a tax exemption is given to societies for municipal taxes and not school taxes. I'm not speaking specifically to your organization.

Mr Hamilton: Okay.

Mr Melville: As you say, you've had an exemption since 1967 in respect of both kinds of taxes, presumably under the Assessment Act. What you're asking this committee, not under the Assessment Act but through this committee process, is to determine whether that exemption should be continued, because I understand there's a court matter. Is that the case? There's some doubt as to—

Mr David Johnson: We are on your criteria, and maybe we should nail them down first. You've listed the five criteria. Those are all the criteria?

Mr Melville: Those are all the criteria.

Mr David Johnson: As I understand it, they meet each and every one of them.

1210

Mr Melville: They do indeed.

Mr David Johnson: You're saying that even though they meet the criteria, the government still has the right to deny or oppose the application.

Mr Melville: This committee has the right to approve or disapprove the application. I think that should be very clear.

Mr David Johnson: They meet all the criteria, but you're saying we should not approve it because they're a humane society and this is the first humane society that—

Mr Melville: I'm trying to provide information to the committee. Thank you very much.

Mr David Johnson: But you're also making a recommendation, I think, as I understand it, through the parliamentary assistant.

Mr Melville: The Ministry of the Solicitor General has indicated through its representative that it opposes the bill. That is correct, I believe.

Mr Hamilton: If I may interrupt, their opposition is through the OSPCA Act, which we're not applying to.

Mr Eddy: It was pointed out by Mr Mills and subsequently by Mr Hayes that it's being objected to or opposed on the basis that the whole thing needs to be looked at. That's great, and I agree with that, but the point is when. I think we need to get on and deal with this application.

If the other comes in, and I hope you have time to work at it—we've got a whole list of things that need to be and that's great, but until that comes forward—and indeed if some policy comes forward eventually, or sooner than that perhaps, then some of these may be affected by it. That's fine.

I always figure, never use the reason that it's a precedent for not taking action, because I think when elected bodies do that, they're just not prepared to face up to and deal with the application. I am and I'm approving it.

The Chair: Mr O'Neil, you're the next person on the list.

Mr O'Neil: I guess I'm trying to get some—

Interjections.

The Chair: Excuse me. Order, please. Mr Perruzza, did you want to actually get on the list of questioners? We can put you on.

Mr Anthony Perruzza (Downsview): No, I'm just—

The Chair: No, no, Mr Perruzza, you're not on the list of questioners. Mr O'Neil.

Mr Perruzza: I yield to Mr O'Neil.

Mr O'Neil: I'm not quite clear on this, and maybe I should be, but what you are saying is that there are grants that are given to the head body that in turn returns some of this money to the local unit?

Mr Hamilton: We receive no funding from the OSPCA.

Mr O'Neil: Could you clarify that?

Mr Hamilton: The former status, if you will, of OSPCA affiliates was that they would be tax-exempt. On the basis of the OSPCA Act, a Supreme Court ruling determined that the legislation does not apply to the affiliates, only to the OSPCA. We are an affiliate. We are applying for tax exemption as a charitable institution, not as a member of the OSPCA.

Mr O'Neil: If they're an affiliate not receiving any help, what happens to that money that goes to the head branch?

Mr Melville: I'm not sure I understand the question.

The Chair: Mr Hamilton, do you have any comments on Mr O'Neil's question? Mr O'Neil, would you like to reiterate your question?

Mr O'Neil: In other words, you're saying that the government gives money to the—

Mr Melville: OSPCA?

Mr O'Neil: Yes.

Mr Melville: No, no. As I understand it, is it correct that the government does not give money to the OSPCA?

Mr Hamilton: I couldn't really comment factually on that.

Mr Melville: I understand that the region of Ottawa gives a grant each year. I'm not sure how much. It's a considerable sum, approximately \$300,000.

The Chair: Mr Mills may have something to add here. Mr Mills, do you have any knowledge about what's happening with the OSPCA?

Mr Mills: No. I've got it in my head what I believe to be going on, but I haven't had—this was sprung upon me yesterday, because, I think rightly, the documents are circulated through ministries prior to time for comment. Somehow this document slipped through the

Solicitor General without comment from staff. I know roughly what I perceive to be the problem, but I'm not about to elaborate on that, because I'm not sure and I don't want that to be on the record.

Mr Hamilton: I think we're getting sidetracked, if you will, from the real issue at hand. We're not asking to apply the OSPCA Act to the Humane Society of Ottawa-Carleton. What we are doing is seeking an exemption under the Assessment Act, the same as any other registered charity is eligible to seek that exemption from the local municipality.

We've applied through the local municipality. It's taken us two years to get to this stage. We've applied through the Ottawa Board of Education. We've gone through all the steps and met all of the ministry's criteria, and now we're asking for this committee to recommend the passage of the act.

The Chair: Mr Riley, you had something else to add here?

Mr Riley: Yes. My understanding is that essentially that's correct, but I believe the point that should be made is that to grant the exemption proposed will, in effect, force the hands of other municipalities and other school boards, which then will be faced with similar requests from other affiliates of the OSPCA around the province. I think that's why I feel it's so inappropriate here.

Notwithstanding that there may be a range of agreement with the local governments and agencies in the Ottawa area, I think to grant this exemption will perforce dictate the result in other areas around the province, or tend to do so, because of the way the OSPCA is organized and the relationship of affiliates, presumably in the same relationship to the parent as is the Ottawa humane society with the OSPCA.

Mr Mills: I think we could go on around the clock like this, but I can tell you unequivocally that the Solicitor General feels that this matter should be dealt with by the government in general because it's so wide-reaching, with implications of different ones coming to this council after this. I would suggest to you, Madam Chair, that you put the question.

The Chair: All those in favour of putting the question? Those against? We had the two gentlemen over there. How many were against again? Would you please show? Against putting the question? Two. It's a tie.

Mrs MacKinnon: How can it be a tie?

The Chair: Well, you didn't show again, Ellen, if you were against it, putting the question.

Mr David Johnson: I thought you said "against."

The Chair: Yes, because you two were in favour of putting the question, and I asked who was against putting the question, because I have two other people on the list here.

Mr David Johnson: I thought I was the only one who—

The Chair: Let's go through this again. Those in favour of actually having the question put, please signify. Thank you.

Mr Perruzza: And this is the same one we had earlier.

The Chair: No, I'm sorry, it wasn't, and my glasses are actually very close to my appropriate prescription. So I'd suggest actually you might be a little bit more on top of it.

Okay, the motion would carry. We'll have the question put.

Sections 1 through 5, all those in favour of having those approved? Carried.

Shall the schedule carry? Carried.

Mr Hansen: No.

Mr Mills: You didn't ask if anybody's opposed to it.

The Chair: I'm sorry. I just got all rattled with the questions that were—

Mr O'Neil: Take it easy on the Chair.

The Chair: No, no. Just hang on, Mr O'Neil. Just hang on. We'll get ourselves all together here.

Shall sections 1 through 5 carry? No. Okay, I'd like you to show your hands, please.

Mr Perruzza: Be sure and say "for the vote."

The Chair: Thank you, Mr Perruzza, for your comment. Would you please show your hands.

Mr Hansen: For what?

The Chair: For a vote. All those in favour? One, two, three, four. All those against? One, two, three, four, five.

Mr Eddy: It meets the criteria. It meets all of our criteria.

The Chair: You may have the debate outside in the hall, please. It's lost. The bill's lost. The bill will not be reported to the House.

Mr Eddy: But it meets the criteria—

The Chair: Thank you, Mr Eddy. Let's try to keep some order in the room.

Mr Eddy: They have established five criteria. It meets every one of them.

The Chair: Thank you, Mr Eddy.

Mr Eddy: The Solicitor General should get its act together over there and get these things through.

The Chair: Thank you, Mr Hamilton, for coming before us.

Mr Eddy: Throw the criteria out. Throw them out, rip them up. They aren't worth the paper they're written on. I can't take this.

The committee adjourned at 1220.

Continued from overleaf

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

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- ***Vice-Chair / Vice-Présidente:** MacKinnon, Ellen (Lambton ND)
- *Eddy, Ron (Brant-Haldimand L)
- *Fletcher, Derek (Guelph ND)
- *Hansen, Ron (Lincoln ND)
- *Hayes, Pat (Essex-Kent ND)
- *Johnson, David (Don Mills PC)
- Jordan, Leo (Lanark-Renfrew PC)
- *Mills, Gordon (Durham East/-Est ND)
- *O'Neil, Hugh P. (Quinte L)
- *Perruzza, Anthony (Downsview ND)
- *Ruprecht, Tony (Parkdale L)

**In attendance / présents*

Also taking part / Autres participants et participantes:

Hayes, Pat, parliamentary assistant to the Minister of Municipal Affairs
Melville, Tom, legal counsel, Ministry of Municipal Affairs
Reilly, Michael, legal counsel, Ministry of Education and Training
Robson, Bill, senior policy adviser, Ministry of Municipal Affairs
Wood, Margaret, policy adviser, Ministry of Municipal Affairs

Clerk / Greffière: Pajeska, Donna

Staff / Personnel: Klein, Susan, legislative counsel

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Mercredi 30 juin 1993

Standing committee on
regulations and private bills

Comité permanent des
règlements et des projets
de loi privés

Chair: Christel Haeck
Clerk: Donna Pajeska

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STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 30 June 1993

The committee met at 0937 in committee room 1.

HELLENIC ORTHODOX COMMUNITY OF
KINGSTON AND DISTRICT ACT, 1993

Consideration of Bill Pr42, An Act to revive Hellenic Orthodox Community of Kingston.

The Chair (Ms Christel Haeck): I'd like to call this meeting to order. Because of the absence of a couple of people, we will move forward with Bill Pr42, An Act to revive Hellenic Orthodox Community of Kingston.

Mr Ron Eddy (Brant-Haldimand): Madam Chair, perhaps I should have informed you I will be representing Greg Sorbara, MPP. The applicant's representative is here and ready to go.

The Chair: I see. Okay, Mr Eddy, at this point, no. I hadn't realized that, and as I have already called him forward, I'm going to go first with Mr Wilson. I think you realize most of these are not terribly complicated; it won't take very long. My apologies to the applicant, but we will be with you very shortly.

Mr Wilson, please be seated and then introduce your guests.

Mr Gary Wilson (Kingston and The Islands): Although some of them may not be very long, some are much longer than others.

The Chair: This is true. Mr Wilson, as sponsor, would you like to begin.

Mr Gary Wilson: Thank you very much, Madam Chairperson, and thank you, Mr Eddy, for understanding our problems here. I think it will be quite straightforward, so we shouldn't be too long.

The bill, as you probably had a chance to read it, involves the revival of the Hellenic Orthodox Community of Kingston. At the same time, they'd like to change their name, to reflect their role in the community, to "Kingston and District."

Mr Peter Fountas is a director of the Hellenic Orthodox Community and will answer any questions you have about the bill you see before you.

The Chair: If the applicant would like to make a few comments about the bill, then members will be available to ask some questions.

Mr Peter Fountas: I'm Peter Fountas. I took over as one of the directors of the Greek community of Kingston about a year and a half ago, in 1991. The Greek community of Kingston is partly a religious organization. We have had a priest and a Greek teacher there since 1964. Unfortunately, because of the language barrier, a few of our directors who take over at times forget to read or don't know how to read properly and

they did not send the revival of the corporation in on July 17, 1979. When I was voted in approximately a year and a half ago, we were not aware of it. Ever since then we've been trying to get a private member's bill to get our corporation revived.

I'll answer any other questions that anybody has.

The Chair: Mr Hayes, as the parliamentary assistant, would you like to continue, and then we'll turn to Mr Eddy.

Mr Pat Hayes (Essex-Kent): Thank you, Madam Chair. The Ministry of Municipal Affairs has no objections to this bill.

Mr Eddy: I wanted to assure the representative of the applicant that we have many of these same situations where there's absolutely no language barrier. It's an ongoing thing; we have so many of them. I'm certainly in favour of the bill and in favour of the change to denote the area the applicant represents. Good move.

Mr Tony Ruprecht (Parkdale): I see that Mr Wilson has examined this bill in detail. In fact, Mr Wilson received his BA from Laurentian University; it has special classes in this. That's why I'm absolutely happy to support this bill, because I know he's looked at this in detail. Did you know that about Laurentian University?

Mr David Johnson (Don Mills): The only concern I had is that they apparently have moved from Johnson Street. At any rate, I'm happy to support it.

The Chair: That could be a grave concern in some quarters, yes.

I should ask one further question of the assembled group here. Are there any other interested parties who wish to bring their concerns forward about this bill? Seeing none, I would suggest that the members might be ready to vote.

Shall sections 1 through 4 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you very much for coming forward and for your time.

KIRBRYN HOLDINGS INC. ACT, 1993

Consideration of Bill Pr9, An Act to revive Kirbryn Holdings Inc.

The Chair: Now we will move to Bill Pr9. Mr Eddy, if you could begin.

Mr Eddy: Chair and members, it's my pleasure, on

behalf of Greg Sorbara, MPP, to introduce the applicant's representative for Bill Pr9, An Act to revive Kirbryn Holdings Inc. Seated with me is Anna Ventresca of Lewis, Brown, Scarfone, Hawkins, solicitors for the applicant, who will introduce it and answer any questions members of the committee might have.

Ms Anna Ventresca: Thank you, Mr Eddy. I am representing Mr Thomas Hughes, the applicant for this private bill, who is president of Kirbryn Holdings Inc. I will give you a brief history of the corporation.

Kirbryn was incorporated in 1980 and remained active as a holding company until 1983. From 1983 through 1990 the company was inactive and through inadvertence failed to file the necessary corporate tax returns as required under the Corporations Tax Act. In 1987 the Ministry of Revenue dissolved the corporation for default in complying with the Corporations Tax Act. This dissolution was pursuant to subsection 240(3) of the Business Corporations Act.

The notice of dissolution was mailed to Mr Hughes's old address. Unfortunately, it was not forwarded to his new address in Burlington. Therefore, he did not become aware of the dissolution until the spring of 1992, at which point he was advised to file the necessary corporate tax returns and request a consent from the Ministry of Revenue for revival. Again through inadvertence, this consent was not requested and the five-year limitation period passed. Therefore, we were unable to file the articles of revival. Therefore, our last resort is this private member's bill.

I believe all procedural steps have been met with regard to this private bill. All the notices have been published, the statutory declaration has been filed, the compendium has been filed and the necessary consents from the Ministry of Finance and the Ministry of Consumer and Commercial Relations have been received.

I should also mention that in 1990 the corporation again became active, the holding company. At that time, a Mr Harold Lusthouse, a professional accountant, came on board, who is still present with the corporation. Mr Hughes is confident that this sort of error will not occur again in the future, having Mr Lusthouse's professional abilities at hand. Those are my submissions.

The Chair: Thank you very much. Any questions? Are there any other interested parties in the audience who would like to come forward and express their concerns about this bill? Seeing none, Mr Hayes, any concerns on the part of the Ministry of Municipal Affairs?

Mr Hayes: The Ministry of Municipal Affairs has no objections to Bill Pr9.

The Chair: Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you very much, Ms Ventresca, for your time.

PARAGON FINANCIAL CORP. ACT, 1993

Consideration of Bill Pr54, An Act to revive Paragon Financial Corp.

The Chair: I'd like to call Mr Grandmaître and the applicant for Bill Pr54, An Act to revive Paragon Financial Corp.

Mr Bernard Grandmaître (Ottawa East): Thank you, Madam Chair. On my right is Phil Waserman, the president of Paragon Financial Corp. We're appearing before you this morning to revive Paragon Financial Corp, which was dissolved on January 13, 1986, under the Business Corporations Act, 1982, for default in complying with the Corporations Tax Act.

Mr Waserman was never notified properly. I guess the mail you have received was never sent to the proper address, and we are appearing before you this morning to revive Paragon Financial Corp. If you do have any questions of my friend, it's open.

The Chair: Mr Waserman, did you have any comments at this time beyond what Mr Grandmaître has already made?

Mr Phil Waserman: Just if you have any questions, I would be pleased to answer. We're in the process of substantial legal proceedings to recover moneys owed, and it's necessary to revive the corporation to carry on.

The Chair: Are there any questions?

Mr Ruprecht: Mr Grandmaître indicated that the notices that were sent were never received. Why is that?

Mr Waserman: The address the ministry had was an old address, and despite written assurances to my solicitors that it had the correct mailing address, everything went to the old address and we never received it.

Mr Gordon Mills (Durham East): I think it's important to note that the Ministry of Finance is quite satisfied that you've met all your requirements, and that is good enough for me. I'd just like to point that out.

Mr David Johnson: Madam Chairman, I gather this is a fairly common state of affairs, is it? Maybe this question is directed more to whatever staff we have here or maybe the parliamentary assistant. Many of the addresses we have are out of date, a good proportion of the addresses. Is there staff here to answer that?

The Chair: There are some at the back. If you would please introduce yourself and indicate which ministry you are from.

Mr Earle Straus: Certainly. My name is Earle Straus. I'm a lawyer with the companies branch, Ministry of Consumer and Commercial Relations, and we are responsible for the cancellation of the corporation.

Notices of cancellation must be sent to a corporation before it is cancelled. The corporation is then given an

opportunity to correct its defect. If the address we have on file is not current, then we cannot forward the mail to the actual address. The responsibility is of the corporation to keep its filings up to date.

Mr David Johnson: I guess this is really my question: What percentage of your addresses on file do you suppose would be up to date and what percentage not up to date?

Mr Straus: Offhand, I can't say, but the percentage of incorrect information is significant.

Mr David Johnson: So it's much larger than you would wish?

Mr Straus: Yes. This committee sees a very small percentage of the results of incorrect information.

0950

Mr David Johnson: Maybe this goes way beyond this issue, but what steps are you taking to update your information so we don't run into this kind of thing on a continual basis?

Mr Straus: The basis of the high error rate was reform to our legislation about 10 or 15 years ago that placed the onus on individual corporations to notify the companies branch of a change when a change happens. We have seen that this honour system is not working effectively and we are introducing legislation to require corporations to file, in addition to changes that occur during the year, annual statements as to the current state of fact.

Mr David Johnson: Is it necessary for them to file on an annual basis, do you think, to keep the records up to date or would every two years or three years suffice?

Mr Straus: An annual filing is desirable because if the corporation does not acquit that obligation, the corporation risks being dissolved.

The Chair: Mr Hayes, did you have any comments as the parliamentary assistant for Municipal Affairs?

Mr Hayes: Municipal Affairs does not have any objections to this bill. Mr Straus, you're talking about the legislation. Do you think this will help to gather up-to-date information and help us with a database so corporations will not have to go through these kind of things as often as they do?

Mr Straus: It will import a new and, we believe, effective discipline on corporations. They will have to renew their information filings with us annually, on pain of automatic dissolution, short of engaging investigators at enormous expense to search out defaulting corporations. Corporations are incorporated for specific private interests, and unless the corporations do acquit their filing requirements, they will no longer be in existence.

Mr Eddy: We've got into a procedural matter, but mistakes can be made in addresses. On a personal basis, I find one of the problems, when your mail goes to the wrong address, perhaps it disappears and doesn't go

back to the sender. That's one of the biggest problems.

But I'm not so sure I'm in favour of the proposed amendments. I mean, we're putting the registered businesses in an awkward position, and I don't think it's much of a problem to come forward here. They're the ones that have the work to do to get here and take the time; we're here anyway. So I don't see it as a problem handling these. I know there are quite a few of them, but it's the way it is, and addresses do change. In fact your address can be changed on you, with some notification I suppose, but addresses have been known to change when a person stays in the same location.

The Chair: Seeing no further questions, are there any concerns among members of the audience around this bill? Seeing none, we'll move to the vote.

Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

PHILMANSEY INVESTMENTS LTD. ACT, 1993

Consideration of Bill Pr55, An Act to revive Philmanser Investments Ltd.

The Chair: Mr Grandmaitre, you are doing Philmanser Investments. Mr Wasserman is also the applicant. Any comments, Mr Grandmaitre?

Mr Grandmaitre: Can I simply say ditto?

The Chair: Ditto? That might actually take care of it. Mr Wasserman.

Mr Wasserman: Ditto.

The Chair: Okay. Are there any members of the audience who wish to raise any concerns about this bill? Seeing none, are the members ready to vote?

Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Very good. Thank you, Mr Wasserman, for your time.

CITY OF TORONTO ACT, 1993

Consideration of Bill Pr80, An Act respecting the City of Toronto.

The Chair: As our next order of business, we call Bill Pr80, An Act respecting the City of Toronto. The sponsor would be Mr Perruzza. Because of a pressing meeting on behalf of the applicant, we're just moving this slightly forward in the agenda. Mr Perruzza, would you like to make some opening remarks on this bill?

Mr Anthony Perruzza (Downsview): Yes. Good morning. As the sponsor of the bill, my good friend Rosario Marchese, is unable to be here today, I've been asked to introduce on his behalf to the committee Bill Pr80, a proposed amendment to the City of Toronto Act to provide the city of Toronto with the power to require the owners and occupants of private land within the

city, at their own expense, to cut the grass and weeds on their lands and to remove the cuttings whenever the growth of grass or weeds exceeds the standard as set in the bylaw.

The city of Toronto also recognizes that certain classes of persons, such as the elderly or the disabled, may not be able to satisfy the requirements of a grass-and-weed-cutting bylaw. It is therefore also seeking the authority to provide for the cutting of grass and weeds in relation to these properties at the expense of the municipality.

The legislation as proposed would provide the city with a quick and effective means of remedying problem situations involving unsightly overgrown lots, while ensuring that the municipal taxpayer is not required to foot the bill for the maintenance of such lots or the expense incurred by the city when it is forced to do the work itself.

I understand that city of Toronto councillor Betty Disero and city solicitor Dennis Perlin are here today to present this bill to the committee. I respectfully request that you approve Bill Pr80 and report it to the Legislature. I'll ask the councillor and the solicitor to introduce themselves and address you as well.

Ms Betty Disero: My name's Betty Disero and I'm a member of Toronto city council. Mayor Rowlands couldn't be here this morning, so she's asked me to come on her behalf. With me is Mary Ellen Bench, who's the director of legal services and the assistant to the city solicitor, Dennis Perlin.

In the city of Toronto, with the increase of intensification in terms of housing and many more absentee landlords and a lot of vacant properties and buildings, what we're finding as members of council is that we get a number of calls, more so annually, about the overgrown grass and just the lack of care taken by neighbours who don't live there for some reason or even people who are sort of unable physically to maintain the properties in the way that they may be used to.

As members of council we call the property department and say, "Please, Commissioner, can you go and get rid of these noxious weeds," which is under the Weed Control Act, which allows the city of Toronto to go and cut weeds and charge back to taxes, if we so decide. It obligates people to have to clean weeds from their property.

The unfortunate part about that bill is that it doesn't take into account just long grass and general maintenance, and so the city of Toronto requires an amendment to the City of Toronto Act to allow us to require owners and/or tenants to maintain properties in a way that is not offensive to the neighbourhood or allow us, in cases where people are handicapped or elderly, to provide that service for them.

This is not something pioneering that the city of

Toronto is doing. I understand cities like York and Ottawa and others already have the amendment that they need to do this. We'd ask that the city of Toronto be allowed to engage in this as well. Mary Ellen Bench is here to talk about all the legal technicalities with you.

Thank you for listening this morning. I'd also like to thank you for bumping us up the line. I have to go to a neighbourhoods committee meeting that started about a half-hour ago. Thank you very much for understanding.

The Chair: We try to accommodate wherever possible. Ms Bench, do you have some additional comments to make?

Ms Mary Ellen Bench: Yes. Basically to reiterate what Councillor Disero said, we have received several complaints due to problems with long grass within the city of Toronto. The situation arises usually by the failure of the occupant, including the owner of a residence, to care for the lands or because the land's vacant or unoccupied or in some cases now abandoned.

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The purpose of seeking this special legislation is to allow us to deal with weeds that are not noxious, that are still a problem. Quite often this problem is exacerbated to persons who suffer from allergies or other problems. It has also been raised as a result of concerns of neighbours who have to live next door to unsightly properties, and therefore the city is requesting this legislation. It's very similar to legislation that has been given to the city of York, the city of Etobicoke and the city of Ottawa.

Basically what we are requesting is that we be allowed to cut long grass when it reaches a height of 20 centimetres or higher, as we put in a bylaw. Certain cities, like the city of Ottawa, for instance, have requested similar legislation for 10 centimetres, but we feel 20 centimetres is the proper limit.

In terms of technical matters, Mr Don Oliver, who's the general manager operation foreman in the property services division, is here to answer any questions, if there are any concerns in that respect.

I should also point out to you that the city of Toronto does have housing standards legislation that allows us to deal with conditions of property, and that was obtained in 1936. However, the process under that legislation is not proper to deal with a long grass/weeds issue because it's a very complicated process with appeals. By the time you finish the appeal route, the summer's over and the problem's resolved. So we're trying to seek something that would allow us a quick, expeditious remedy in relation to what's been given to other municipalities.

The legislation itself is very brief and, as I indicated, it's directed towards grass and weeds that don't qualify as noxious weeds. Noxious weeds are generally those that are determined to be a hazard, something like

purple loosestrife, because of the way that they overrun the environment, or ragweed. So we're dealing with things that don't fit those categories.

It's to allow us to give notice to the occupant, as well as the owner of a property, so that we can properly control this problem and deal with it within a relatively short period of time. Service can be made by substituted service and we've requested that service be effected three days after the notice is sent out, so that we can take action, again so that we can deal with these problems as they occur, because as summer goes on they become very extensive.

The Chair: As an allergy sufferer, I can appreciate those comments. We do have a couple of members who have some questions.

Mr David Johnson: I've dealt with this problem on many occasions in my former life, and my suspicion is that when the apartments and houses legislation gets passed, this is going to get a whole lot worse. So maybe it's a good idea that you're getting prepared for it.

In the preamble it was mentioned that seniors and the disabled would be excluded from this. Is that right?

Ms Bench: They would be excluded from the charge provisions. The city would be able to go in and cut grass on their properties at the city's expense. We've done that similarly with snow removal on sidewalks in front of properties.

Mr David Johnson: Is that covered in the bill?

Ms Bench: Yes, it is. Clause 1(1)(c).

Mr David Johnson: I guess I just missed it. "By any class of persons." So by "class of persons," you mean seniors and disabled. You define seniors to be 65 and over and disabled to be some definition of disabled, I guess?

Ms Bench: Yes.

Mr David Johnson: You mentioned that this is specifically for grass. In many instances we ran into situations where people were growing vegetables or flowers. They're not noxious weeds, they're not grass, but some people consider them to be a terrible eyesore.

Ms Disero: Actually, I received a call about four years ago from somebody who was complaining about her next-door neighbour growing tomatoes and cabbages out on the front yard. We did some research and found that in 1929 the city of Toronto passed a bylaw that you're not allowed to harvest in your front yard. So we called her back and said, "It's okay if they grow them, but as soon as she picks them, call us." There's nothing, apart from the fact that you can't pick tomatoes and cabbages that are growing in your front yard. You can't harvest them, but you are allowed to grow them. It's not a major problem.

Mr David Johnson: No. I guess there have to be a few rights and freedoms left in this world. But this

bylaw doesn't affect that at all?

Ms Disero: No.

Mr David Johnson: This is simply for grass and nothing else.

Ms Bench: Grass and weeds, as indicated in it. Part of what you may be alluding to is a lot of natural gardens type of thing, and where that will be dealt with is in the discretion in terms of enforcing it. If it's a garden effect, then of course we use discretion in how we deal with it and try and resolve the problem.

Mr Mills: Once upon a time in my life, I was a city councillor in Barrie, and this was the blight of my life: people phoning up, "What about So-and-so with the long grass?" If it's grass and not noxious weeds, you can't compel people to cut it. I remember one incident, and I'm just wondering what you think of this, where these people were back-to-nature types—I haven't got anything against them—and their garden was just unbelievable, all these wild grasses and everything, and we could not force them to cut that. I'm just wondering how that would fit in with the scenario, if someone were like that, who really loved nature and didn't want to see a haircut type of grass.

Ms Disero: The city of Toronto parks department is now getting into wildlife areas even in the city of Toronto, and with cutbacks and everything, it would really depend on the nature of the front yard. If it's wild flowers and that type of garden, then in fact it is a garden, but if it's just overrun with weeds, there are usually things that accompany that as well like dumping, garbage and stuff in the front yard. We do have wildlife areas in the city, even in small parks and neighbourhoods, and you can tell the difference between the two.

Mr Mills: Obviously, you're going to use discretion.

Ms Disero: I believe, probably.

Ms Bench: As I've indicated, there is discretion in the way it's enforced and there is a possibility even for exemptions, so that through the enforcement procedure we'll be able to deal with those.

Ms Disero: The city of Toronto, in a lot of cases, doesn't go looking for trouble, but if there's a complaint we need a mechanism to be able to control it.

Mr Mills: I understand that one section that was a little bit problematic is now being amended. It says the bill may be collected in the same manner as municipal taxes. So that little oddity is being cleared up, and I can support that.

Mr Ruprecht: Mr Mills will appreciate this, but once upon a time, I did grow tomato plants in the front yard. The problem will be whether the city of Toronto will be able to differentiate between grass and tomatoes and weeds.

Ms Disero: We have hired experts.

Mr Ruprecht: In terms of your snow removal bylaw, do you give 72-hour notices as well? Is that the time you provide for people to respond?

Ms Bench: No, I believe the time of the snow removal bylaw is 24 hours. I was referring to that in terms of the provisions for the seniors and the disabled, where we go in and do the work ourselves.

Mr Ruprecht: For some reason, you think it's better to give them three days here, right? That's plenty of time.

Ms Bench: In the snow-and-ice situation, we're dealing with a safety issue that's much greater than it is in this case; the problem with people tripping and falling on snow and ice. That's why the notice has to be much tighter there.

Mr Ruprecht: I think it's quite reasonable, some 20 centimetres and 72 hours later. It's a good idea.

Mr Eddy: Recognizing that this can be and indeed is a problem across Ontario in urban areas and municipalities—it's not a problem in rural areas, of course, because it would be identified or claimed to be hay, but in the urban areas it is across the province. So until such time as there is an amendment to the Municipal Act giving all municipalities permissive authority for vegetation control or indeed there's a vegetation control act paralleling the Weed Control Act of the province, which has been attempted on occasion, and because this does parallel the Weed Control Act, I'm prepared to support this application and indeed any others until such time as all municipalities have permissive authority.

The Chair: Mr Hayes, as the parliamentary assistant, did you have any additional comments to make?

Mr Hayes: No, the Ministry of Municipal Affairs does not object to this application, especially because it is complaint-driven, and it can't be abused on the other side.

The Chair: Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you very much for your time this morning.

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VILLAGE OF MERRICKVILLE ACT, 1993

Consideration of Bill Pr33, An Act respecting the Village of Merrickville.

The Chair: Mr Runciman and others, if there are any, regarding An Act respecting the Village of Merrickville, Bill Pr33.

Mr Robert W. Runciman (Leeds-Grenville): I'm all by myself, Madam Chair. This act simply allows the council to change the title of the head of council from reeve to mayor. It's a request of the residents of the municipality and the council concurred, and it's part of

the bicentennial celebrations of the village.

The act recognizes the considerations in respect of the Municipal Act and the possibility, which is unlikely, that the population at some point may reach enough electors so that the village would qualify for a deputy reeve, but that's highly unlikely.

The Chair: Is there anyone in the audience who wishes to come forward and make any comments concerning this bill? Seeing none, Mr Mills.

Mr Mills: Does this change from "reeve" to "mayor" alter the construction of the council in that you have to have more members, or does it remain the same? How does that fit in?

Mr Runciman: That was a question I asked as well, because I know we have areas in the province where you have both a reeve and a mayor. The reeve serves on the county council, and the mayor has other responsibilities. But in this case, that doesn't occur, and the mayor will continue to serve on county council.

Section 1 of this act indicates that despite the Municipal Act, the head of council will be designated as the mayor and—I've got the wrong section, I'm sorry. There is a section here in respect to county council, I believe. In any event, there will be no change in the makeup or membership of council, simply the title change.

Mr Eddy: I'm in favour of approving the bill, because I firmly believe that the elected head of every area, local and constituent municipality in the province of Ontario should indeed be called the mayor. That has been attempted through legislation but has not been successful.

It's not a unique situation, because in the county of Lambton indeed all of the heads of local municipalities other than the towns, that is, the villages and townships, are called mayors now, and it's happened in several other areas. Of course, we have one municipality in Ontario that's even more unique and has a lord mayor: Niagara-on-the-Lake. But I'm certainly in favour of the application. Congratulations.

The Chair: Any further questions? Very good. I would assume then members are ready to vote on this bill.

Mr Hayes: Can I say something?

The Chair: I am so sorry, Mr Hayes. I'm just moving right along.

Mr Hayes: That's all right. We're streamlining this committee, you notice that?

The Chair: Mr Hayes, are there any concerns on behalf of Municipal Affairs?

Mr Hayes: Municipal Affairs does not object to this application. I'm just wondering, though, the deputy reeve is deputy to whom?

Mr Runciman: In this case, there is no deputy

reeve. The population of the village is 900, and I believe you require 1,000 electors to qualify for a deputy reeve. Electors are somewhere about 400 or 500, so it's highly unlikely it will change in our lifetime, in any event.

The Chair: Let me pose the question again. Are members ready to vote?

Shall sections 1 through 5 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you very much, Mr Runciman.

APHASIA CENTRE—NORTH YORK ACT, 1993

The Chair: Mr Turnbull and the applicant for Bill Pr23, if you would like to come forward. Would you introduce the applicant and make some opening remarks, Mr Turnbull.

Mr David Turnbull (York Mills): Good morning. I would like to introduce Mr Silverman of CITY-TV, who is a director of the Aphasia Centre, and Patricia Arato, who is the executive director of the Aphasia Centre.

The Aphasia Centre is an organization which seeks to help people who have had strokes, to rehabilitate them, particularly with respect to regaining their speech skills.

The act provides for tax exemption from property taxes for the premises of the Aphasia Centre, and the application is supported by the mayor of North York. We are attempting to get a fax sent down at this moment to underline the mayor's support of this.

The Chair: Mr Silverman, did you have some comments?

Mr Peter Guy Silverman: The only thing I have to say is that with the current funding problems that the province of Ontario faces, the taxes we're paying come to an amount of just over \$55,000. In order to maintain the level of services we provide, we need that exemption.

I would also point out that we have some literature here which succinctly defines what we do, but it does not encompass a whole range of our activities, which is to include not only post-hospital rehabilitation for those who suffer from aphasia but also to provide respite to the families or the care givers of those victims of that type of stroke.

We are open to every member of the community, provided of course that they are afflicted with this particular problem. We have expanded our services considerably, and that's why we are now in larger premises, because we could not cope with the demand in the premises we previously had. Unfortunately, not being very rich or powerful, we couldn't afford to buy the location we're in now, which is an ideal one; it's an ex-supermarket which was refurbished to suit our needs.

It's an ideal location and, provided we can stay in that location, we can provide an even greater level of services to a wider number of people, and there is a growing demand for this, particularly as the demographics of the province are changing and we are dealing with an age group where stroke is particularly prevalent.

The other thing I'd like to point out is that it is not only within that particular age group, though they're the preponderant numbers, but we're getting an increasing number of younger men and women who are suffering from stroke and particularly from aphasia, which is a particularly onerous type of affliction; you lose your ability to communicate. I have, as I say, some literature here which explains exactly what we do and what aphasia is. A number of people really don't know what it means in reality.

The Chair: Thank you, Mr Silverman. Ms Arato, did you have some additional comments to make?

Ms Patricia Arato: Yes, I just wanted to say that we have this particular hardship because of the building. However, we have now 170 members in the organization who attend our centre, and because of the current problems, as everybody has, with raising funds, it's particularly difficult when we have to pay out nearly \$5,000 a month in taxes. This is why we're looking for some form of assistance in terms of the exemption from paying the taxes.

The Chair: Thank you, Ms Arato. Is there anyone else in the audience who has some concerns they wish to raise about this bill? Seeing none, Mr Mills.

Mr Mills: I have nothing but admiration for what you're doing, sir, and the organization, don't get me wrong, but I do have some difficulty in that we come here, it seems, almost weekly with requests for tax relief, and sometimes we say yes and sometimes no.

I'm just wondering if someone from Municipal Affairs could comment. Is this what makes this all right and some other time it's not all right? Just as a matter of interest, because I know it's got the support of the mayor, if the taxes are not paid on that particular property, then it comes upon everyone else to take up the slack. That was one of the arguments we heard put before us here, I believe at last week's meeting. I just wonder, Mr Parliamentary Assistant, is Municipal Affairs in agreement with this?

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The Chair: Would you like to respond, Mr Hayes?

Mr Hayes: Thank you, Mr Mills. It's a good question.

Mr Mills: I don't mean to put you on the spot.

Mr Hayes: No, you're not putting me on the spot. That's what politicians are for: public servants.

There are certain guidelines that the Ministry of Municipal Affairs goes by, and one of them is that the

municipality either supports or doesn't support. If the municipality doesn't support it, then this ministry can't see its way to support this. In this particular case, the city of North York has not provided a resolution, which is part of our guidelines that we go by. At this present time, they have not provided a resolution or even acknowledged a resolution, as far as we know. Therefore, we would not be supporting this application.

Mr Mills: Have you mentioned that this is coming by way of fax?

Mr Silverman: Yes. Either there was some confusion or whatever happened, but we were not made aware until almost the last minute that we had to have the support of the city of North York in terms of a resolution.

I would like to point out one thing. You raised a question as to what is passable and what isn't passable. One of the things I'd like to point out is that we utilize over 100 volunteers, and in the long run, the costs that would accrue to the province of Ontario for the municipality to provide a similar service would be far greater than what the cost is at this present time. If you're looking at tradeoffs, I think that's a pretty cogent argument in our favour.

I do admit that unfortunately we did not get the resolution. I'm quite sure we can get the resolution, because the mayor does in fact support us, and other members of the council. They've supported us every year with grants. We are situated in North York, as you well know, and I don't have any difficulty with that.

The Chair: Mr Hayes, do you have any additional comments to make?

Mr Hayes: I'm not disputing what you're saying about the mayor supporting this resolution, and I'm not being sarcastic or anything, but has the council supported it? I think that's very important. The mayor is one person on the council. I think until we get that resolution, maybe we had better defer this, until we see that and then go from there. That's what I would suggest.

Mr Turnbull: Could I suggest that there could possibly be a resolution of this on the basis that if a resolution were forthcoming within a reasonably tight period of time, you would pass it on that basis, but it would be contingent upon receiving that within a defined period of time?

The Chair: I think that is what the parliamentary assistant is proposing, to defer it until some of these other issues have been resolved.

Mr Turnbull: What I'm suggesting is that in light of the parliamentary calendar, if you were prepared to pass this, but contingent upon receiving that resolution within this period, in that way it would not be deferred until the fall.

The Chair: Let me first of all consult with the clerk.

In the meantime, we have two more questioners. I will turn first of all to Mr Johnson, and in the meantime, I will confer with the clerk.

Mr David Johnson: In a slightly different light, I guess I'm hearing, Mr Silverman, that you actually haven't been before the city. You've talked to the mayor and you've talked to various councillors, but you haven't actually been before the council itself.

Mr Silverman: That is correct, sir.

Mr David Johnson: I presume that you haven't been before Metropolitan Toronto council, then, either.

Mr Silverman: No.

Mr David Johnson: Just reading the bill here that says, "Exempting from taxes for municipal and school purposes," when it says "municipal," are you thinking in terms of simply the North York portion?

Mr Silverman: No, I'm thinking of both. I believe the procedure or the protocol is that we get both approval of North York and Metropolitan Toronto.

Mr David Johnson: It was your intent, then, to go to Metro council?

Mr Silverman: Our intentions are, obviously, to start with North York and then go to Metro and do this. I think, if I may say, that what we're dealing with here is a time frame, and if it is possible to agree with Mr Turnbull's suggestion that you people approve this, but with a proviso that we get the resolutions and the appropriate municipal authorities, that would at least alleviate the necessity of coming back again before this committee and delaying this even more. Time for us, at this juncture, is kind of important.

The Chair: If I can just add as a point of information, in discussing this with the clerk, what would basically happen as a result of the contingency is that the bill would sit anyway. It would not be getting second and third reading until you had fulfilled all the obligations that would be set out, so you wouldn't be any further ahead. It would still be waiting until the fall.

Mr David Johnson: How many more meetings are we having of this particular committee?

The Chair: Basically, as long as the House sits, so if we're sitting further into July, obviously Aphasia Centre has that opportunity of going back and doing some of that work.

Mr David Johnson: I guess the problem will be to go through the municipal process, to first of all start with a committee at North York and a committee at Metro and then to go through the council at North York, the management committee, probably, at Metropolitan Toronto and then through the council at Metropolitan Toronto in the summer. That will more than likely take us into August, at least at Metro, if not at North York as well. I don't know if we have a legislative counsel. I'm not sure who the lawyers are here.

The Chair: Not me.

Mr David Johnson: Is it legally possible to do what Mr Turnbull has suggested, that we give approval to this on the proviso? It would then be drafted and come into law on the proviso that North York did give its approval and Metropolitan Toronto did give its approval.

Ms Susan Klein: I don't think you can pass a bill on the proviso that you get something, because once you've passed it, it's passed. You have to come in and repeal it. I can't imagine putting a condition right into the bill saying, "This is repealed if we don't get a resolution by this date." There's no way that the people in the public who read the statute books can, with any certainty, tell whether that bill is in force or not.

I thought what the clerk was saying was that you could maybe approve it in principle here, but not report it back to the House so that these people don't have to come back again, but on the side of passing a bill conditionally, I don't see that as being a real possibility.

Mr David Johnson: If it's approved in principle, what happens if the municipalities don't agree with it?

Ms Klein: I think this is a procedural matter and maybe I shouldn't be speaking to it.

Mr David Johnson: So how can we deal with that? Give us suggestions as to how we can deal with it.

The Chair: I think it does make for some problems all the way around, but let me just first of all turn to Tom Melville.

Mr Tom Melville: I'm Tom Melville, legal counsel at Municipal Affairs.

There was an additional point, which is having to do with the Metro consent. Previous precedent: Bills that recently have been passed by this committee, including the Bikur Cholim Act last year, had a specific provision in the bill allowing Metro to give its consent to its portion of the tax exemption, and Municipal Affairs would request, if this bill goes ahead, that provisions similar to that be inserted in this bill. For that reason, I think it would be necessary to defer so that those provisions could be inserted in the bill.

The additional point I'd like to make, just to remind the committee, is that the resolution of council, of course, is not the same thing as the mayor's opinion.

1030

Mr David Johnson: Yes, we understand that. Can you tell me, then, if this is what you were going to say, why didn't you say this up front so that this organization would know what the ground rules were up front?

Mr Melville: We did, in the sense that they were aware that we were going to object to—

Ms Lynnette Coy: My name is Lynnette Coy. I'm with the municipal finance branch of the ministry. There was a letter sent out to the organization, I can't remem-

ber when, from the minister stating what the criteria for considering the bill are. I also spoke to Ms Arato, telling her what the criteria would be. So the organization was aware of it.

Ms Arato: It wasn't until very recently that I found this out. I got a letter, probably about three weeks ago, regarding the outline, which was the same as what was in the guideline, the book, on how to apply for a bill. I knew the most important thing was that we didn't own the building, and then I talked to Lynette Coy last Friday, I guess, or Thursday.

Mr David Johnson: I'm just going to say that it appears to me that here we have a good organization that's doing a lot of good that didn't seem to be made aware of the requirements and the procedures that it had to go through: all the approvals that it needed from the municipal level, for example. I would ask you to re-examine your procedures to ensure that these kinds of organizations are made aware of what has to be done.

The Chair: Just as a point of information, Mr Johnson, I think I'll turn to the clerk at this juncture for the point of view of what in fact the normal procedure is for bringing a bill forward to this committee so that maybe some of your questions can be clarified.

Mr David Johnson: It's not fair, though.

The Chair: Excuse me. If I may have a bit of order here. In taking over the chairmanship of this committee, I was advised that there are a series of approvals and that there is a fair bit of negotiation that is to take place prior to it coming to this particular committee. The organization has to put notices in the newspaper to try to advise people in the community that this is taking place and has to definitely go through a process of making sure that as much of the concern that has been raised has been resolved. The municipality may have some objections or the ministry may see that there are some problems. But basically the procedure is set out, and there is a pamphlet that the clerk's office makes available to any organization prior to bringing a private bill forward.

Ms Arato: I did go through all these procedures and I did advertise. I think you have the affidavit there that we advertised in all the proper newspapers, the Ontario Gazette and locally, and notified all the municipalities and the school board.

The Chair: For whatever reason, those organizations haven't responded?

Ms Arato: Didn't respond, no.

Mr Ruprecht: I wanted to pick up on something the parliamentary assistant has actually said, and I guess my question first is to him. Your point about agreeing with the request by municipalities, once a municipality agrees that an exemption should be granted: Is this a rule now or is this just identified as being specific to this case, Mr Hayes?

The Chair: Mr Ruprecht is directing a question.

Mr Hayes: To whom?

The Chair: To you.

Mr Hayes: I'm sorry. I take it you were talking about the municipality, if the municipality approves.

Mr Ruprecht: Yes. You gave them the impression that once the municipality has agreed to grant the exemption, they could walk away from here very happy, knowing that all they had to convince is the municipalities and we would then no longer have any objections. Is this the case?

Mr Hayes: Not entirely; not just because a municipality agrees with it, but that is one of the conditions or one of the correct criteria or guidelines that the ministry uses, that if the municipality doesn't agree or doesn't acknowledge application, then it puts us in a position where we're kind of overruling the municipality, that type of thing, and I don't think we want to do that.

Mr Ruprecht: I understand, but I didn't want the deputants to have the wrong idea, and that is that if I were in their shoes today I would have thought: "Thank you very much, committee members, but all we've got to do now is convince Metro council and city council, get their approval. We appear before this committee on our way back and get the agreements." Is that the impression you've had up to this point?

Mr Silverman: Yes.

Mr Ruprecht: That's not a bad impression.

Ms Arato: Sort of.

Mr Ruprecht: Sort of. Again, like Mr Mills said, I don't want to put you on the spot, but to clarify this, I don't want them to come back again saying, "Here are two agreements. Two municipalities are saying we can have it," coming back to the committee and we're saying to them, "No, I'm sorry, but there's another objection."

Mr David Johnson: No, we wouldn't say that.

Mr Hayes: There are some technical changes that would have to be made in the bill. One example would be that Metro would have to have a say as to its share of taxes. That is why I made the recommendation that we defer this until next week, to take a look at it and get all of the proper information.

Mr David Johnson: But you won't have the municipalities' say by next week.

Mr Hayes: I don't know that.

Mr Ruprecht: That's not my point.

The Chair: Mr Perruzza, you're the next questioner.

Mr Perruzza: I'm not one who's prepared to play politics with this. Every word that's been stated in this committee has been recorded. Every member of the committee so far has spoken in favour and in support of the bill. Hansard is readily available to anyone who

wants it after this meeting is over, and if the people making representation to this committee want that, they can take Hansard, go to their local council, go to Metro council, lay it out before them and say, "Look, the legislative committee is prepared to support our initiative if you guys will give us the resolution to be able to do that." I think that's quite clear and that's very upfront in terms of where the committee sits.

I'm supportive of the initiative. As a former North York councillor and as an MPP from the city of North York I have no problem in that. I'm going to move that it be deferred and that it be brought back at the earliest possible opportunity upon receiving the appropriate approvals from both local and Metro council, and that as soon as that happens and they notify the committee clerk, it be put on the committee's agenda so that we don't delay it any longer than necessary.

Mr Mills: Put the question, Madam Chair.

The Chair: We have a motion on the floor for deferral. Is there any discussion on the motion?

Mr Ruprecht: Yes, there's discussion, Madam Chair. There's certainly discussion.

The Chair: Actually, Mr Mills also said to put the question.

Mr Mills: I say, in view of the motion, that the question should be put.

Mr Ruprecht: This is silly.

Mr Mills: No, it isn't. It's common sense.

The Chair: Order, please. Order. We have had some discussion around the whole process of deferral. However, Mr Mills was going to be the next speaker. Since he had asked to put the question, I'm going to in fact move to the last person who is going to add any comments to this at this point before moving for the vote, and that is Mr Turnbull.

Mr Turnbull: Just a few quick comments—

Mr Perruzza: On a point of order, Madam Chair: I'm not quite understanding your ruling. I spoke, put a motion on the floor. The next speaker, recognized by you and given the floor by you, asked that the question be put. There's no comment, there's no debate on that. You take a vote on it.

The Chair: Mr Perruzza, I feel that there is some additional discussion required and I am moving to the next questioner, and that is Mr Turnbull.

Mr Perruzza: Madam Chair, because I like you I'm not going to challenge the Chair, but—

The Chair: I'm sorry, that is fine. You are not allowed to do that and I would ask you to finally—

Mr Perruzza: I'm not challenging the Chair only because I like you.

The Chair: Mr Perruzza, I am trying to be a reasonable chairperson, and at this point you're testing my patience.

Mr Turnbull, did you have some additional comments that you wish to make before we in fact turn to the vote on the deferral motion?

Mr Turnbull: Yes.

The Chair: I'm quite sure you have enough time in your schedule, Mr Perruzza, to be able to manage that.
1040

Mr Turnbull: Just a few comments to summarize what has been said. I get the sense that there is broad support for this, which is good. I was made aware for the first time from the comments that it would be required that there be a clause inserted requiring Metro separately to approve its portion of the taxes.

I would suggest, just as a matter of practicality, that it might be useful for the legal department in future, where such a clause is contemplated, to at least make the MPP who has passage of this aware of it. Had I been aware of it, I would have been able to work with them on this. That's just a suggestion.

I approve of what Mr Perruzza is saying, that basically there appears to be a mood in the room to approve it. It was suggested that, in essence, this could be approved today by the committee but not reported to the House, pending provision of the documentation from North York and pending the insertion of the clause regarding Metro. Is that not correct?

Mr Melville: May I respond to that, Madam Chair?

The Chair: Actually, we do have a motion on the floor, and I think at this point, in light of some of the discussions, we should move to that. The motion is that this bill be deferred until the approvals from the North York and Metro Toronto councils have been sought, and that it be brought back at the earliest opportunity.

Mr David Johnson: Madam Chair, may I just ask you on that question: If there's a clause that's put in, as has been suggested, regarding Metropolitan Toronto, do we need to wait for the Metropolitan Toronto support?

The Chair: I'm sorry, Mr Johnson, we have a motion. We're in a vote.

Mr David Johnson: I'm just clarifying the motion. I'm wondering if the Metro portion of that support is actually required.

The Chair: No, Mr Johnson, that is out of order. We are in a vote and we are now going to call on all of the members to vote.

Mr David Johnson: I'm just trying to be helpful.

The Chair: No, Mr Johnson, actually it's not at this point. So what we're going to do is move to the vote.

All those in favour of the motion to defer, please signify. All those against? At this point, the motion to defer is carried, and hopefully we'll see you in the fall.

Mr Turnbull: As a point of clarification, do I understand it's deferred till next week, if we're still sitting?

The Chair: No, until—

Interjections.

The Chair: Once you have those other approvals, please come to us again. Thank you, Mr Silverman.

Mr Silverman: I hope we've livened up your procedures.

The Chair: Yes, you have, and thank you very much. Mr Hayes.

Mr Hayes: Yes. I want to just kind of clear the air here a little bit. I know there were some comments made about the procedure from some of the staff here in the Ministry of Municipal Affairs. As a matter of fact, there is a letter on record. I have a note before me of March 22, 1993, when Ms Coy actually wrote Ms Gray a memo stating that the applicants have been notified and were told of the criteria to follow. I think we should make that clear.

Mr David Johnson: Were they told they needed the municipal approval?

Mr Hayes: It says here that Ms Arato has been in touch with the city of North York and the school board and has not heard what they have decided.

Interjections.

The Chair: I think actually we are at this point adjourned.

Mr David Johnson: Before we do, are they going to be charged for the cost of printing etc, or does that come up after the adjournment?

The Chair: That comes up after.

Mr David Johnson: So I don't need to put this motion.

The Chair: Yes, because this is obviously not being printed at this point, so this is later.

Mr Turnbull: Madam Chair, as a point of information, we have just received the fax from Mel Lastman that we spoke about.

The Chair: We have still the Metro council issue to be clarified, so thank you very much. This committee is adjourned. It has been a lively morning, the last little bit. Thank you all.

The committee adjourned at 1046.

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- *Perruzza, Anthony (Downsview ND)
- *Ruprecht, Tony (Parkdale L)

**In attendance / présents*

Also taking part / Autres participants et participantes:

Coy, Lynette, senior economist, taxation policy, Ministry of Municipal Affairs
 Hayes, Pat, parliamentary assistant to the Minister of Municipal Affairs
 Melville, Tom, legal counsel, Ministry of Municipal Affairs
 Strauss, Earle, legal counsel, companies branch, Ministry of Consumer and Commercial Relations

Clerk / Greffière: Pajeska, Donna

Staff / Personnel: Klein, Susan, legislative counsel

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Wednesday 13 October 1993

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Mercredi 13 octobre 1993

Standing committee on
regulations and private bills

Comité permanent des
règlements et des projets
de loi privés

Chair: Christel Haeck
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STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 13 October 1993

The committee met at 1004 in committee room 1.

The Chair (Ms Christel Haeck): I call the meeting to order. Welcome back to all. It's been some months since we've had a chance to get together in this forum. Members of the committee, I'd like to advise you that you have a revised agenda. Have you found it?

OWEN SOUND LITTLE THEATRE ACT, 1993

Consideration of Bill Pr35, An Act to revive Owen Sound Little Theatre.

The Chair: I would like to call forward Mr Johnson, who will present, on behalf of Mr Murdoch, our first bill, which is Pr35, An Act to revive Owen Sound Little Theatre, if you would like to undertake that, Mr Johnson.

Mr David Johnson (Don Mills): It's been such a long time since we've had one of these meetings that I forget the exact routine, but this is special legislation to revive the Owen Sound Little Theatre. The applicant, who in this case is Isabel Draper, the secretary of the theatre, represents that she is the director of the ongoing organization and carried on in the name of the corporation.

The corporation was dissolved back on July 17, 1979, for default in complying with the Corporations Information Act, but the applicant represents that the default was inadvertent and that activities have been carried on in the name of the corporation despite the dissolution.

The applicant is here. You'll see she's before us, Isabel Draper, the secretary of the theatre. She's accompanied by the president, Ruth Gorbet. Their chauffeur is here as well, Norman Gorbet, but he hasn't chosen to join them.

The Chair: Very good, Mr Johnson. I thank you, ladies, for making the trek down to present this bill to us. At this point, if you have any comments to make, this is your opportunity.

Ms Isabel Draper: Owen Sound Little Theatre is a very active group. It was unknown to our group until a year ago that we had been dissolved. We were operating as though we were a full corporation, so as secretary, I took steps to revive us.

We are a totally volunteer group. Every year our executive changes, and that is the reason we did not file forms that were supposed to have been filed. We have now taken upon ourselves to have a proper manual printed up so that our secretaries and our treasurers to come have a guideline to follow so it will never happen again.

The Chair: Very good. At this point, I ask if there

are any other parties who have any comment to make on this revival. Seeing none, are there any questions on behalf of the members present?

Mr Ron Hansen (Lincoln): I would say this is just straightforward. It's an oversight of the theatre. I don't have a problem and I don't think any of the members on the government side have a problem with this piece of legislation.

The Chair: Any comments from this side? Mr Hayes, as the parliamentary assistant, are there any comments that you would like to make at this point?

Mr Pat Hayes (Essex-Kent): The Ministry of Municipal Affairs does not have any objections to Bill Pr35 and we'll support it.

The Chair: Very good. It would appear that we are prepared to vote. Let me ask the question: Are the members ready to vote?

Interjections: Yes.

The Chair: Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Mr David Johnson: This is a charity. We're aware that money is in short supply and they're doing an excellent job. I would move that the fees and the cost of printing be waived in this matter.

The Chair: Are the other members in accordance with that? Agreed. That is then carried.

Ladies, I would say that it was a productive morning, and thank you for coming.

Ms Draper: I thank you very much for your time.

Ms Ruth Gorbet: When you're in Owen Sound, come and see us in our new theatre.

Ms Draper: We are in rehearsal for "Lend Me a Tenor," which takes place in November. Then we have another production in the spring called, "A Life." In between, we are doing one-act plays, because our theatre is under renovation and we have our hands full doing that.

Mr Derek Fletcher (Guelph): Good luck.

CAMBROCO VENTURES INC. ACT, 1993

Consideration of Bill Pr47, An Act to revive Cambroco Ventures Inc.

The Chair: We will call, as the next order of business, Bill Pr47, An Act to revive Cambroco Ven-

tures Inc. I believe, Mr Ruprecht, you are the sponsor, if you would like to bring forward the applicants.

Mr Tony Ruprecht (Parkdale): I'm happy to support An Act to revive Cambroco Ventures Inc. With us is Mr John Campbell, and Mr Bill Bassett, who is the accountant.

John Campbell has applied for special legislation to revive Cambroco Ventures Inc. This application represents that he was a director and shareholder of the corporation when it was dissolved. The corporation was dissolved on September 8, 1986, for failure to comply with the Corporations Act. The applicant represents that he did not receive the notice of default and that business has been carried on in the name of the corporation despite the dissolution. I'm here to support this bill and make this introduction.

1010

The Chair: I would like to turn to the applicants at this point, if they would like to make any comments with regard to the bill that is before us.

Mr John F. Campbell: I really haven't any comments to add.

Mr Hugh O'Neil (Quinte): I just wondered, what does the company deal in? What is it, a property company or—

Mr Campbell: Originally it was put together as an investment vehicle. I was involved in the purchase of a farm property at that time and I had plans to develop that property.

Mr O'Neil: So the property is still owned by this particular company.

Mr Campbell: Yes.

Mr O'Neil: That's the reason you've asked for it to be—

Mr Campbell: Yes, right, with hopes to develop it further.

The Chair: Any further questions, Mr O'Neil? Are there any other questions on behalf of the members at this point?

Mr Ron Eddy (Brant-Haldimand): It's not really a question, but Mr Ruprecht has assured me that this is in order and I am pleased to see that he has sponsored it and I agree with it.

The Chair: I do have to ask if there are any other interested parties who are present who would like to make a representation at this time.

Mr Hansen: There seems to be a letter of objection in here. I would like to hear from legal counsel our position on passing this particular bill. We've run into similar situations in the past, and I believe that we're not judges on letters that come in to the point where there's a lawsuit or legal proceedings involved.

Ms Susan Klein: I think in the past when there have been legal proceedings involved, this committee has

ignored that fact in deciding whether to revive a corporation. Any questions between the parties should be resolved in a legal proceeding in a court where they can assess credibility and issues of evidence. The committee has never found that revival has any effect on—I shouldn't say has never found that it has any effect. It looks to whether revival has any effect on the legal proceedings.

Mr Hansen: I just wanted that answered by legal counsel, since the objector's not here and the letter was raised.

The Chair: Is Catherine Mak here?

Mr Bill Bassett: No.

The Chair: Okay. We have her correspondence enclosed. Have you all had a chance to peruse it?

Mr Eddy: There's also a letter, I notice, from the Ministry of Revenue at the bottom.

Mr Bassett: I'd like to answer.

The Chair: Yes, sir?

Mr Bassett: I was retained. My name is Bill Bassett. We did notify Miss Catherine Mak. Officially, she was taking it because there was no official form I ever tabled since 1982. We did send her a letter and it was returned to sender. She gave an address but apparently she's no longer living there.

Mr Campbell is the majority shareholder and always has been president, as set out in the original articles of incorporation. I've personally notified Susan Klein, legislative counsel, and she was satisfied.

The Chair: For members, I hope you've found the Ministry of Revenue letter which is dated July 30. It says, "Pursuant to my memorandum of July 16, the Ministry of Finance/Revenue has now been advised of the corporations branch," etc "and the ministry therefore has no objection to the revival of the corporation." I don't believe there's someone else here from the Ministry of Revenue.

Are there any further questions relating to this particular bill? Are the members ready to vote? Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Mr Hayes: I have no objections.

The Chair: I'm sorry. I didn't allow the parliamentary assistant his rightful place in this. Mr Hayes, do you have any—sorry. Anyway, shall I report the bill to the House? Agreed.

Thank you very much, and thank you, Mr Campbell and Mr Bassett.

The next order of business is Bill Pr49, An Act respecting the Association of Hearing Instrument Practitioners of Ontario.

Mr Hansen: Madam Chair, just before we go on, maybe it's a technical point, but in the first one we had, Bill Pr35, did we pass the preamble to be carried?

The Chair: Yes, I did.

Mr Hansen: Okay. Maybe it was just a different order you went in.

The Chair: No, no, maybe I moved along a little faster. I'm not sure if I definitely—for those who wonder, I do have a cheat sheet that I do try to read, so we try to get through them all.

ASSOCIATION OF HEARING INSTRUMENT
PRACTITIONERS OF ONTARIO ACT, 1993

Consideration of Bill Pr49, An Act respecting the Association of Hearing Instrument Practitioners of Ontario.

The Chair: Is Mr Owens here as sponsor of the bill? All right, Mr Mills, you will act as the sponsor?

Mr Gordon Mills (Durham East): Thank you, Madam Chair. On behalf of Mr Owens, I'd like to introduce Bill Pr49, An Act respecting the Association of Hearing Instrument Practitioners of Ontario. I believe Linda Bohnen, who is the solicitor, is here, and Alan Burrows, the director of professional relations branch, Ministry of Health. Is that gentlemen here? Yes? We might hear from him later. There are some other legal counsel we should call upon as this bill unfolds, Madam Chair.

The Chair: Thank you very much. Nice to see you again, Linda. Would you like to introduce the two ladies you have with you.

Ms Linda Bohnen: Yes, I will. To my left is Christine Helik, who is the president of the Association of Hearing Instrument Practitioners of Ontario, and to my right is Joanne Sproule, who is the executive director of the association.

The Chair: Would you like to begin your presentation?

Ms Bohnen: Yes. Thank you very much, Madam Chair, ladies and gentlemen. I'd like to begin by telling you something about the association, then move on to why we believe this bill is necessary and in the public interest, tell you a few things the bill does not do and what the benefits to consumers will be from enactment of this bill.

First of all, the association is a voluntary professional association. It was incorporated some years ago as a non-share capital corporation under the Ontario Corporations Act. Unlike the two private bills you considered previously this morning, this bill has nothing to do with the corporate status, existence or objects of the association.

These objects, which are set out in the bill as well as in the corporate charter, include promoting the welfare of the hearing-impaired of Ontario, establishing and

maintaining standards of education in conducting hearing tests and selecting and fitting hearing aids and sponsoring a code of ethics and improving the business standards of members of the profession.

The association represents about 85% of practitioners in Ontario, and these practitioners are directly involved in the sale of hearing aids to hearing-impaired consumers in Ontario. There are two subgroups within the profession. One, the hearing aid dispenser, as you would expect from the name, is involved in actually fitting and dispensing a hearing aid to an individual consumer. A hearing aid specialist is involved in performing a hearing test on the prescription of a physician and in helping to select a hearing aid, again on the prescription of a physician.

1020

Why is this bill necessary? As I've already told you, it is not necessary to create or to continue this corporation. However, practitioners who belong to the association are not regulated in Ontario, which makes this province only one of two in Canada which do not regulate hearing instrument practitioners.

Hearing aid services in this province are provided by three groups of practitioners, this being the only one which is not regulated. The other practitioners are physicians, who diagnose diseases and disorders that cause hearing loss and may prescribe hearing aids, and audiologists, who assess auditory function and also may prescribe hearing aids, and they will become regulated later on this year with proclamation of the Regulated Health Professions Amendment Act and the Audiology and Speech-Language Pathology Act.

Hearing aid specialists, who perform the tests and select hearing aids, and hearing instrument dealers, who fit hearing aids and sell them to consumers, are not regulated in Ontario. Hence, the professional association is the only vehicle available to consumers to try to enhance the protection of the public from less-than-desirable business practices and unskilled practice in the delivery of direct hearing aid services to the public.

The association has found in its experience that without the restricted designations that are contained in this bill, it is difficult to do its job. That's because it has little clout to prevent a member of the association who misbehaves and who becomes subject to an ethics or grievance procedure from simply dropping out of the association and carrying on as before. It is sometimes also difficult to explain to practitioners the benefits of belonging to the association if their less than perfectly ethical colleagues can continue on as before without belonging to the association.

This association, like many others in this province, is seeking private legislation in order to be able to give the benefit of restricted use of a designation to its members. There's nothing particularly novel about this in Ontario; for example, I did a quick search yesterday and came

across certified engineering technicians and technologists, who have private legislation, chartered industrial designers, certified translators, certified court interpreters etc.

I'd like to also point out, anticipating one of the objections you'll be hearing later on this morning, that private legislation which does confer the exclusive right to use a designation exists in other statutes in a regulated as well as unregulated environment. For example, the certified engineering technicians and technologists coexist with professional engineers, who are regulated under public legislation. The court translators and interpreters, who have this designation protection under private legislation, coexist with lawyers and other legal practitioners who are regulated under public legislation. So there's nothing particularly new or innovative with this particular bill.

Again, the content of the bill itself, I'd have to say, is not particularly innovative or extraordinary; it was based on other private legislation such as the ones I've just mentioned to you, where membership in the association confers the right to use a special designation.

What then does the bill not do? I think this goes to the heart of some of the objections you'll be hearing. First, as I've already told you, it does not create this association; it does not create new objects; it does not change the objects in any way; it does not change the function of this association.

Secondly, it does not authorize members of the association to do anything they can't already do in their practices. The activities that they perform in conducting tests and fitting and dispensing hearing aids are activities that are not regulated under the Regulated Health Professions Act; they are activities in the public domain. This bill does not change that.

Thirdly, it does not prohibit or restrict anyone else from doing anything other than using one of the designated titles, so that, for example, there is absolutely no impact on the practice of audiologists or physicians, of course, or any other professional in this province. The bill simply does not affect that, nor could it, being private legislation.

What benefits to consumers do we think will come about by virtue of this bill? Members of the association are required to achieve competency standards, including passing an examination set by the Ministry of Health; members must abide by a code of ethics; members are subject to a grievance procedure; members post recommended fee guides in their offices; they are required to issue carefully itemized bills to their customers.

For these reasons it is advantageous to consumers, we believe, to encourage membership in the association and it is similarly advantageous to consumers to help them to differentiate, through the use of designations, between members and non-members. To that end, the associ-

ation, if this bill is enacted, has plans to increase public awareness of the designations through physicians, who are the gatekeepers to the service provided by hearing instrument practitioners.

Finally, I'd like to point out that, unlike other forms of regulation which are extremely costly to the public purse as well as to members of the profession, in this case all of these consumer benefits are fully borne out of the budget of the association. There is absolutely no public cost to enacting this bill and to granting the right to use these designations.

I'd be happy to answer any questions you may have about the bill. The two representatives of the association can speak better than I can to the nature of the association and the practices of hearing instrument practitioners.

The Chair: I will at this point, knowing that there are some other people in the audience who may wish to make some comments about this bill, ask any of the other interested parties to identify themselves. Linda, if you could possibly, with your group, move back, we could ask the other groups that have an interest in this bill to identify themselves and to come forward, please.

Mr Alan Burrows: As the Chair I think knows, my name is Alan Burrows. I'm the director of professional relations for the Ministry of Health. With me is Bogna Andersson, also on the staff of the professional relations branch of the Ministry of Health. I'm here on behalf of the ministry and the minister to express concerns about this private bill, because in the opinion of the Ministry of Health it has a potential for, at least in a small way, undermining about 11 years of work and legislation that this Legislature has passed and is in the process of getting ready for proclamation in December of this year.

I'd like to make a few comments and then again, if you have some questions, we'd be happy to answer them. As you've heard, the Association of Hearing Instrument Practitioners of Ontario is a voluntary association representing the interests of the profession. As head of a department that deals regularly with the health professions, I think it's safe to say that these professional groups certainly serve a valuable purpose, because if someone isn't going to represent well the interests of individual professionals, who is going to do it? So we're not here to question the validity of the association. In fact, during the long process leading up to the new legislation, the points of view put forward by voluntary associations certainly had a major impact on the outcome of that process.

I'd also like to say that it's certainly not the ministry's opinion that the positions taken by voluntary associations are always opposed to the public interest. Sometimes they are one and the same. In this particular case, we think some aspects of this bill, however, are not in the public interest.

Bill Pr49 would give exclusive right to AHIP to grant, withdraw and withhold the use of the titles "certified hearing instrument specialist" and "certified hearing instrument dispenser." Bill Pr49 would give the association the statutory right to register, discipline and fine up to \$10,000 and would provide a statutory right to appeal to the Divisional Court.

1030

You've heard about what Bill Pr49 doesn't do. These are some of the things it would do that concern us.

The model for this statute would be very similar to many elements of the profession-specific statutes under the Regulated Health Professions Act, 1991, which we commonly refer to as RHPA. It's specifically similar to those professions that will not have a controlled act per se. You've heard from the association that they will not have a restricted act in the scheme. However, all professions governed by this legislation will have elements such as title protection and registration, discipline and fines and penalties associated with them.

The Ministry of Health is in the process of enacting this new legislation, the Regulated Health Professions Act, in 21 profession-specific acts. RHPA will regulate 24 professions in Ontario. It's based on the recommendations of the Health Professions Legislation Review and many years of intensive consultation with professional and consumer-interest groups. As a matter of fact, 11 years of work is being concluded this year with a proclamation in December of this package of legislation. I think it's important to recognize the amount of effort that has been put into the development of this legislation and what it really represents.

You heard from the AHIP presenters that there's nothing new here. I certainly agree with that: private bills are not new. However, in the case of health professions regulation, there is something new here, very new. In fact, the Legislature went back and looked at a blank piece of paper, had before it legislation that was the result of six years of independent review of the issue of professional regulation of health professionals in this province. One of the cornerstones of that legislation is the fact that for all health professions, all existing legislation, including private bills, should be scrapped and replaced with a comprehensive system of health professional regulation, the purpose of which would be to protect the public interest.

From the view of the Ministry of Health, the logical position for title protection for any health professional or for systems of discipline and complaints and fines is within the framework of that legislation, not going back in time to recreate a system on which the government has spent several million dollars. I might point out that three governments and nine ministers of Health have supported us getting to this point, and having it come forward at the last minute in this way—we're not questioning the merits of the arguments of the associ-

ation, but rather the logic of coming forward at this time in this way to deal with this issue when in fact three governments have supported a complete scrapping of the existing system, including private acts for health professionals to deal with this sort of thing, and coming forward at this time with this particular point of view.

It's also a bit unfortunate, I think, in terms of timing, because the new legislation creates a new body called the Health Professions Regulatory Advisory Council. This is neutral body. It is independent of the health professions and independent of the Ministry of Health and bureaucrats. It's a neutral forum where issues such as this, who should and should not be regulated—I put to you that title protection is a fundamental element of professional regulation—can be dealt with in a neutral way and a recommendation made to the Minister of Health, who will be responsible for the administration of this new legislation, to weigh the merits of the arguments and in an unbiased way present the minister and cabinet and the Legislature, if necessary, if legislation results, with an independent point of view on these things.

We don't purport in the Ministry of Health to have the expertise to make decisions with respect to a lot of these arguments. In fact, in many ways, the best points of view come from the professions themselves—not just the profession that wants to put forward its own self-interest but those other professions that may have an interest in the issue as well—and last, but far from least, the points of view of the average consumer. This would provide that forum. It will be in place in January 1994.

The RHPA is founded on the concept that those health professionals who require regulation in order to protect the public from harm should be regulated under one umbrella statute so that the public has the same access and rights in dealings with any regulated health professional. An underlying principle of RHPA is to offer the freedom of choice of health care providers within a range of safe options. Therefore, only those health professionals who are regulated under RHPA will have protected titles, to enable the public to distinguish between regulated and unregulated professions. Restrictions on the use of professional titles are the primary method of enabling consumers to make these important decisions, and we don't disagree with what the association has said in that regard.

The question for the committee is, do you have enough objective information to decide whether or not you should give people a monopoly over this title? That's effectively what you'll be conferring if you pass this bill.

Allowing the passage of legislation such as Bill Pr49 or any other legislation—you've heard that this is not new. We expect that there may be other private associations that will come forward with similar bills. I would put to you: What if this was the Ontario Medical

Association that was coming to you and saying, "We don't have a college"—assume they didn't have a college—"but we want to protect the title 'doctor,' we want a complaints and disciplines mechanism, and we want to be able to fine people," yet there was a College of Nurses of Ontario and there was a Royal College of Dental Surgeons of Ontario and so forth?

I would ask that you look at the issue in that generic sense. What is this really all about? In fact, what is regulation? There is direct regulation, where you have individual statutes, but there's indirect regulation as well. I would put to you that the reason there is a title protection component in each and every single health professions act under the new legislation is because title protection is a fundamental element of regulating health professionals.

Also, it's long-standing government policy that there should be separation of church and state in the regulation of health professionals. Through this bill, you would be conferring upon the association rights that it does not presently have with respect to complaints and discipline, giving it statutory responsibilities. You've heard that they can do many of these things voluntarily, and that's absolutely correct, but you would be giving them statutory authority to do so. In the case of the health professions, it's not like a normal marketplace. People's health is at stake, for one thing. What is the risk of harm? The risk of harm is damage to individuals, so it's very difficult to compare it to, say, many of the other professions, where the outcomes might not be as personal or as severe.

The issue of no public cost is certainly an important one to consider in these times, but if you were to accede to that argument, it is possible that you could see a proliferation of such groups. Would that really be in the public interest? What would be the public cost in the end, down the road, if there were other forms of restricted titles and confusion to consumers? What would be the cost of that? It's hard to predict what it would be, but certainly there would likely be some cost, perhaps of a different sort than monetary, by conferring this kind of protection.

This group of practitioners, by the way, did come forward during the Health Professions Legislation Review process too and did not convince the review team, independent of government, nor did it convince an all-party committee of this Legislature that this profession needed to be regulated.

They're coming forward again, as is their right. Our suggestion within the ministry is that having taken the time and the effort and consumed large amounts of the resources of this Legislature to develop what in fact is a new and innovative system, it would not make sense to necessarily end-run that or circumvent that in any way before the system that the Legislature has put in place is given a chance to work.

With that, I think I'll end my comments. Hopefully it is obvious that the Ministry of Health has a definite point of view here related to a rather sweeping reform of the health professions regulatory system, which finally after many years of work and effort is about to put in place.

The Chair: Before I recognize Mr Mills, I do have a personal comment to make. For those of you who saw me nodding possibly around some of the comments Mr Burrows made, I did have the privilege, along with Ms Bohnen and Mr Burrows, to actually sit on the committee that reviewed the Regulated Health Professions Act, so some of the arguments that are being made I have heard before, and they do sound very familiar. But I will restrict my comments to those which I've just made and recognize Mr Mills with his question.

1040

Mr Mills: Thank you very much, Madam Chair. Usually I speak worse than today, but excuse me.

Mr Eddy: We'll bear with it.

Mr Mills: We'll bear with it. Okay.

Mr Burrows answered one of the questions I was going to ask. I think this committee must really consider that point, that this group went before a legislative committee of all parties and was refused on the basis that the committee discussed. I think we mustn't lose sight of that here. I'm afraid that to me is a very convincing argument, that these folks had the opportunity to appear before the regulated health professions committee and they were turned down not only by the government members but by a committee of members of all parties in the House. I think that is a convincing argument and I am not about to say anything else. Thank you very much, Madam Chair.

Mr Burrows: Just a point of clarification: The association did not seek regulation, in the end, from the review team. They certainly were participants in the review and certainly made a case for regulation. In the end, what they were seeking was a controlled act, which is the only element of health professions that will in fact be restricted turf, if you want to use the vernacular, under the new scheme. I didn't want to misrepresent that.

Mr Eddy: I realize that Mr Burrows's name is listed on the agenda we received this morning, but I do think it's unfortunate that we didn't have the advantage of reading the presentation along with the considerable material that was presented in our packet with this particular application. I don't know why it wasn't, but I think it's only fair to the members, when there is considerable information regarding an application, especially from a ministry, that we have the opportunity to read the cons as well as the pros. I resent the fact that it wasn't with our material, and I think it should have been.

I had a couple of questions. Mr Burrows mentioned in his presentation that the Ministry of Health is in the process of enacting legislation. I think that's a misuse of the word, personally. I don't think a minister or a ministry can enact legislation. That's what I caught, and I'm not sure which item it was.

I'd like to know also: On November 25, 1991, Bill 43, the Regulated Health Professions Act, received royal assent. Why has it taken two years between the time royal assent was received—the bill was passed by the Legislature in royal assent—and we're still awaiting proclamation? I think I need to know that. I think it's inordinately long. Why did we go through passing it? Why did it receive royal assent if we weren't proceeding to proclamation? I don't understand that. Maybe there's a valid reason, but it seems a long delay, and perhaps in view of that the applicant has decided to appear before us with the application.

When we say it's near proclamation, I would like to know, because some things that are near, in some people's view, are a decade away—that's an exaggeration, of course—what does "near" mean? Does that mean November 25, 1993, or indeed is it next year or the year after? I don't understand it. There may be a lot of reasons.

Thank you for the opportunity to ask questions.

The Chair: Thank you, Mr Eddy. Actually, I can give you a couple of explanations myself, having sat on that committee. One of them was that there were elements of the—there actually wasn't just one bill. There were in fact about 21 bills that had to be dealt with. That was the range of professions that we dealt with at that time. In fact, there were parts of it that were stood down because of the—Mr Burrows will probably help me.

Mr Fletcher: On a point of order, Madam Chair: I don't think it's the position of the Chair to be explaining certain situations.

The Chair: Well, I can always turn to Mr Burrows, and I know Mr Burrows will do a very adequate job in explaining that. Mr Burrows, since Mr Fletcher objects to it, why don't you go ahead.

Mr Burrows: Thank you. I'd like to respond to Mr Eddy's comments. With respect to the material, I'd like to clarify that the material we presented to the clerk this morning is not specific to this issue. It's some general information related to the legislation that has been publicly available for quite some time. We just thought it might be useful to you in your considerations. That's a public document and is not specific to the issue before you today. It's background on the Regulated Health Professions Act.

The second thing, if there was a slip of the tongue, is that certainly the Ministry of Health does not enact legislation. The Legislature does that. We are imple-

menting enacted legislation. I may have got a little tongue-tied there and I apologize.

I think the significant question is, why has it taken since November 1991? There are, I think, several valid reasons. One must remember the complexity of the issue. It took the review six years to come up with a basic list of who should and should not be regulated under this scheme and the basic components of the legislative recommendations. It took the Legislature a long time to grapple with the issues, as the Chair said, and it has taken us an equally long time to grapple with a number of the regulatory issues.

Let me explain. First of all, we had to set up an administrative infrastructure. We had to set up the advisory council. That has been done. The advisory council chair was appointed last fall and the other members were appointed at the beginning of this year and they are getting themselves ready for business at proclamation.

We had to set up interim governing bodies for the new health professions, and they had to determine what work had to be done and to develop the necessary core regulations under the legislation.

Thirdly, we had to develop these core regulations in concert with the health professions. To put it in a bit of perspective, there are 800 theoretical regulations under RHPA and in the core there are more than 100, and if you look at the individual clauses within those 100, there are approximately 300 to 400 clauses minimal. In some cases, some of the regulatory proposals have 50 clauses. Each and every word has a policy issue associated with it that we have to work through with the governing bodies of the professions and with consumer groups and other people who wish to comment on these. We also have to develop ministry regulations.

In these times of constraint, there are limited resources. The transitional councils, for example, for the new professions were set up at the absolute minimum bottom-line figure that we could come up with so that they could legitimately function and yet not have any frills. This has meant that the amount of time taken certainly might have been a little bit longer than it would have been if we had been able to provide them with huge amounts of resources. It simply wasn't possible in these times.

Last but not least, it was recognized during the final phases of the passage of the legislation that there was a serious issue dealing with the sexual abuse of patients. Shortly after the passage of the bills, the task force of the College of Physicians and Surgeons' final report on this issue was received. The college had to have time to assess that report and make its recommendations to the government. Once that had occurred, the government decided that rather than proclaim this legislation it would like to amend it before proclamation, if possible, by bringing in other things to strengthen the issue of

sexual abuse. That set of amendments, Bill 100, is currently before the Legislature right now. It's going to be heard by standing committee this fall and we expect that it will be dealt with.

Proclamation is intended for December of this year, and we are on target with respect to the development of the core regulations. All the governing bodies had until September to submit their final proposals. This has occurred. They are all being sent back to the governing bodies for sign-off and the first batch has already gone through a regulations committee. So we are on target in terms of the proclamation for the end of this year.

Mr Hansen: Madam Chair, I think I saw some nodding from our previous presenters of the bill, and I would appreciate if the Chair would call them back to maybe dispute some of the—

The Chair: I will do that.

Mr Hansen: I just want to make sure they have an opportunity, but I have no questions of the presenters.

The Chair: The only concern I have is that I know there are other people in the audience who have some concerns as well, so if we could ask Mr Burrows and Ms Andersson to possibly vacate these chairs, at this moment I would call Mr Bill Hogle forward with his contingent.

Mr Hogle, for the purposes of Hansard, perhaps you would take the opportunity to introduce your colleagues.

1050

Mr William Hogle: I would first like to say how grateful we are at OSLA to have the opportunity to present to you this morning. I am the executive director of OSLA, which is the Ontario Association of Speech-Language Pathologists and Audiologists. Perhaps I should clarify right now that my background is in health care administration and I am a member of neither of the professions represented by OSLA.

With me this morning is Mr Richard Steinecke, of the law firm of Porter, Posluns and Harris. Mr Steinecke has been OSLA's counsel for a number of years and with your permission, Madam Chair, in a moment or two I will turn the presentation over to Mr Steinecke.

I have a written document for the committee and our oral presentations will follow that document. Has the document been distributed?

The Chair: If this is the document you're referring to, it has. The clerk has definitely distributed it to all members.

Mr Hogle: I would like to begin by offering members a little bit of background on this association. OSLA is the professional association representing over 1,450 speech-language pathologists and audiologists in Ontario, who are responsible for ensuring that the public receives high-quality assessment and treatment for communicative disorders and dysfunctions.

OSLA was formed in 1958 and established a voluntary system of non-statutory regulation for membership. Over the years, membership in OSLA has ensured that speech-language pathologists and audiologists have achieved the necessary professional qualifications and training for their respective clinical practices, and it protects the public from unqualified practitioners.

During the 1980s, OSLA made representation to Ontario's Health Professions Legislation Review, chaired by Mr Alan M. Schwartz, to become included in those new professions which should be given self-regulatory powers.

Some of what I'm going to say from here on in will sound a bit like *déjà vu*. You've heard it before; you've heard it from Mr Burrows and other speakers have also commented on it. However, it might help to put a little perspective to our position.

On April 3, 1986, the Minister of Health stated, "We are now in a position to determine which professions will be included in the new regulatory system—a system which will modernize and replace the current patchwork of legislation." The Honourable Mr Elston went on to say: "The fundamental issue has been to determine which health care professions require statutory regulation to protect the public interest. The review team proposed a set of criteria to help determine which professions should be regulated. All professional groups participating in the review process have been assessed according to these criteria. As a result, the government has decided that 25 disciplines will be regulated."

Audiologists and speech-language pathologists were named among the 25 disciplines and are now included in the Regulated Health Professions Act. You've heard that it has received royal assent and is awaiting proclamation. A companion bill to that is Bill 44, An Act respecting the regulation of the Professions of Audiology and Speech-Language Pathology, and it too is scheduled for proclamation, together with Bill 43. With that, I would turn the podium over to Mr Steinecke.

Mr Richard Steinecke: A number of the points I'm going to be making have already been made, so I'm going to just touch on those. However, there are three concerns that OSLA wishes to address. First of all, the bill appears to create a new statutory-related health profession in an inappropriate fashion. Secondly, the bill may be inconsistent with the Regulated Health Professions Act. Thirdly, the bill combines a self-interest group with a statutory regulator.

I'd like to finish off with a brief response to the cost concerns position taken by Ms Bohnen.

The presentation to you this morning by the association has been that this statute creates a public regulating mechanism. However, it has a couple of novel features that I would submit are very unusual, if not

unique among private bills, in particular the fact that there's a statutory right of appeal from a refusal to register an applicant or from a discipline finding against an applicant to Divisional Court. That's a feature that you give to a public regulator. It's not usually part of a private bill.

Also, the mechanism for protecting the title isn't the usual private mechanism of a lawsuit but rather, as you would for any trademark, it's an application for a compliance order on behalf of the Attorney General. Normally this is brought by the Attorney General, and this act specifically allows the association to bring that. That also is unusual for a private corporation.

As to why it is significant that this legislation creates a new public regulator, I would submit there are four reasons why it's significant:

First of all, hearing aid dealers were rejected as deserving of statutory regulation by the review. I understand Mr Burrows has qualified that somewhat, but in my review of the correspondence, as late as 1985, the hearing aid dealers, which was a forerunner of the current association, were seeking status as a regulated health profession under the RHPA. Mr Schwartz developed four criteria for which professions should be regulated and which should not, and they are contained at the back of your submission, in the appendix. It's the last page of the submission and the four criteria are set out in appendix 2. This was the product of a lot of thought, and at the end of that process, the applicants were not considered to meet those criteria.

Secondly, the RHPA provides a mechanism for assessing whether unregulated professions should be regulated. There's a particular body, the Health Professions Regulatory Advisory Council, and it's first duty in its legislation is to consider this very issue, whether unregulated professions should be regulated. The process set out in the RHPA contemplates extensive consultation and public input into that decision. I would submit to you that this bill circumvents that process.

Thirdly, this bill recreates the patchwork quilt of statutory regulation that exists now and is just being replaced with the RHPA. One of the major goals of the RHPA was to provide a uniform method of regulating all health professions. The old system had many different statutes with varying provisions. The public were treated differently, the members were treated differently, and this resulted in unfairness. I would submit that is a novel feature of this bill, to start that patchwork all over again, even before it has been replaced.

Finally, it is unusual to create a regulatory body in this way because there is a lack of accountability of the regulator. Public regulators must be accountable to the public, in my submission, and the RHPA provides a number of methods of accountability.

Each college has to report to the minister and those

reports are filed with the Legislature. Each college has public members. Each college has an independent review of dismissed complaints by public members, by members who aren't members of the profession. Regulations are reviewed by cabinet. There is the right of the Minister of Health to make regulations. The minister is specifically designated to oversee each college. The Health Professions Regulatory Advisory Council is set up to monitor the operations of the colleges, and all of these colleges are covered by Bill 100 to prevent and deal with sexual abuse. None of those forms of accountability will exist in this current bill if it is passed, so in my submission, this bill is creating a statutory regulator by a back-door process that bypasses the whole history and purpose of the review.

1100

My second point is that the bill may be inconsistent with the Regulated Health Professions Act. Section 1 of the Regulated Health Professions Act prohibits anyone from dispensing a hearing aid without the prescription of an audiologist or a physician. Mr Barr is a practising audiologist and he can tell you the details of what's involved in writing a prescription. It's not just signing a piece of paper; it involves an assessment of a patient and the patient's condition.

Our concern is that the objects of the corporation appear to overlap with the steps that are taken in the development of a prescription of a hearing aid. Therefore, OSLA wishes to ensure that the objects of the continued corporation are subject to the provisions of the RHPA and that AHIP members do not use this bill as a defence to any breach of section 31 of the RHPA.

I don't wish to overstate this, but what I'm saying is that the law is not as clear, as Ms Bohnen suggests to you, that there is no possible conflict. There is a possible conflict, in my submission, that would have to be worked out.

Thirdly, the bill combines a self-interest group with a statutory regulator in one body. It has always been the policy of every government of this province that it's a conflict of interest for the public interest regulator to also be the self-interest body for the profession. For example, the College of Physicians and Surgeons of Ontario cannot act as the OMA, or the Law Society of Upper Canada cannot act as the Ontario Bar Association, just like OSLA is separate from the new college that will be regulating audiologists and speech-language pathologists. This was one of the four criteria that you'll find at the back of our submission, and I submit that's exactly what the bill does: It creates both interests in one body.

My concluding comments deal with the submission to you that there are absolutely no cost consequences to this bill. I submit that this is not necessarily the case. This bill does generate costs. There are costs of Divisional Court appeals, of registration matters and of

discipline matters that do not currently exist. There's the cost of provincial offences prosecutions. There's the cost of compliance order proceedings. These are additional costs that have to be considered.

Another factor to keep in mind is that this bill may generate future costs. As you know, the history of these types of legislation is that stage one is to obtain statutory recognition and stage two is then to come back and say, "Now that you've recognized us as requiring regulation, we want to have the same system that other regulators have." There's nothing wrong with that process. I'm not criticizing that process. All I'm saying is that we have to be aware that's what generally happens in these kinds of legislation and we have to be explicit that we may be generating cost consequences down the road by engaging in that process.

In my submission to you, the bill creates a statutory regulator but does it in the wrong way, without properly and fully considering whether this occupation really requires statutory regulation and without considering how this regulator will be made accountable to the public that it is to serve, whether the bill creates a conflict of interest within the organization and what are the true cost consequences of the bill.

In my submission to you, the best way to answer those questions is to have the association apply, through the mechanism that has been established in the RHPA, for new health professions to be regulated.

The Chair: Mr Hogle, did you have some additional comments to make?

Mr Hogle: Just one, Madam Chair, if I may. I failed to introduce the gentleman on my right, who is Mr David Barr. Mr Barr is a practising audiologist in the province of Ontario and would be available to deal with any issues or questions having to do with the practice of that profession.

The Chair: Are there any additional questions, on behalf of the members, of this particular group?

Seeing none, I have a couple of more people who have indicated a desire to address this issue: Mr Alan Cheverie and Mr John Ford. If you would introduce yourselves, since obviously the names I was given are not as accurate as they should be.

Mr Alan Cheverie: My name is Alan Cheverie. I have with me today Isobel Manzer. I am the chair of the transitional council that was entrusted with setting up the regulatory college for speech-language pathologists and audiologists. Isobel Manzer is our recently retained registrar for that college.

I am going to be very brief because the two speakers you heard before me have very ably covered most of the concerns that we have. However, I would like to just emphasize a few of those and then be available for any questions that you have.

The first thing I would like to say, being mindful of

comments that were made earlier with respect to materials for review, is we were really only made aware of this process and this bill at the end of last week. We have some concerns that are not fully developed, and partly they have to do with that fact. However, certainly some, if not all, of the concerns you've heard from the last two presenters are ones that we would support, as I've said.

We feel very strongly that some of the comments you've heard with respect to the scope of practice that's identified within this bill could very well overlap with the core of the regulated services that our legislation provides. You've heard reference to a controlled or restricted act, and that act is prescribing a hearing aid.

Let me just mention that Ms Manzer is my Dave Barr. She has been a practising audiologist for the past 13 years. I'm a public member and, like Mr Hogle, am not a member therefore of either of the two professions that we're regulating.

With respect to the controlled act, we were entrusted with developing regulation that described the circumstances under which our members would be allowed to perform that controlled act. Those regulations are not fully developed and not fully passed, and so at this point, from our perspective, the definition of what would be involved in prescribing a hearing aid is not entirely settled. We would certainly suggest that assessment is one part of that and, as you see, that's part of the bill before you.

We feel as well that the mechanism that has been developed under the Regulated Health Professions Act that allows for the independent body of public representatives to advise the minister with respect to professions being added to the regulatory process is one that should be taken advantage of. We are all operating as though proclamation of the legislation that we're dealing with will happen this calendar year. That means we are looking at January 1994 for this matter to be referred to the advisory council that was mentioned by the last two presenters.

I anticipate that you might hear that the group before you is not seeking to be involved in that regulation and that what it is seeking to do here is somehow different. I have a concern about that only in so far as that certainly what they're doing can be seen to be support for being involved in that process. How that process will entirely be played out, if I can put it that way, is not yet determined, and again I'm concerned about the timing. Why at this time? Why can't we wait two more months? Certainly it has been a long time for some of the development of these things, as has been mentioned, but we all believe we're at the wire at this point.

1110

Assuming that last comment is correct on the part of the AHIP group and that they're not seeking to be involved in the regulatory process under the Regulated

Health Professions Act, I think it's important to add that there is an additional mechanism whereby the controlled or restricted acts can be performed by someone who is not regulated under the Regulated Health Professions Act, and that is through an application for exemption to regulation regarding the performance of that service or act.

Again, this process is not entirely developed, as far as I know. However, I feel a little discomfort, if I can put it that way, with respect to this private act and how that might be seen as positioning or support for that exemption when the process has not even yet been determined. I'm not meaning to suggest that there are any nefarious or covert actions taking place here, but merely that it is a concern and that there are processes that exist to deal with these areas. Again, we feel that the content of this legislation does at least overlap to some degree the controlled or restricted act that is contained in the Regulated Health Professions Act.

We had a couple of specific concerns with respect to the content of the legislation. These come from a historical appreciation of some of the reasons, as I understand it, that the group was not included in the regulatory process that the 20-some-odd professions are involved in under the RHPA. I again apologize that we have not had enough time to develop a detailed submission or something in writing, so perhaps I could just briefly touch on a couple of these areas and then, as I say, allow you to ask any questions of myself or Ms Manzer.

It's stated in clause 3(c), if I could just turn to it myself, that this group will be presenting a unified voice: "to provide a unified voice for those engaged in the practice of testing hearing, and selecting, fitting, counselling and dispensing hearing instruments." Again, part of our concern comes from the fact that we're not so sure that what is meant by "testing" isn't something that overlaps with what we're doing, and we certainly have not been part of developing that unified voice.

Again, these objects, as I understand it, come from the statement of objects of this organization as it exists now. But enacting these in a piece of legislation recognizes them in a way that I think is not entirely mindful of the objects of the new health scheme to protect the public and protect the public's interest with respect to services provided by health professionals.

With respect to clause 3(d), there's a similar concern in terms of testing.

Clause 3(f), with respect to establishment and maintenance of standards of education and techniques: It's certainly the feeling, from the little time I've had to consult with practitioners that have been involved in the historical development of inclusion in the RHPA, that standards and minimal educational requirements do not exist for these practitioners. That may not be true; they may exist and it's something that's just new and we

don't know about it. This may be seen as a mechanism to allow them to develop those. We don't know, but we certainly think it has implications.

As I say, I think the two presentations that preceded mine ably covered all the other points I have jotted down here that I wanted to bring to your attention, so rather than repeat them, I think I'll end there and just ask if there are any questions of myself or Ms Manzer.

The Chair: Seeing none at this time, I will ask Mr Ford if he has any comments to make. If you would then introduce yourself.

Mr John Ford: Madam Chair, honourable members of the committee, my name is John Ford. I'm past president of the Ontario chapter of the Canadian Hard of Hearing Association. Our organization provides a voice for hard-of-hearing persons regardless of their age or level of hearing loss. I come before you today at the request of the current president to make some comments on behalf of the hard-of-hearing people of Ontario.

I cannot stress enough that the consumers desperately need to have certification and standardization for the jobs of those who work in the retail hearing aid industry. When the Ministry of Health assistive devices program took on the role of providing funding for adult hearing aids, everyone assumed the ministry would also act as watchdog, policeman, for the distribution of aids. It was argued that the ministry could withdraw the vendor number from a certain dispenser and starve them into cooperation or ethical practice. This has not proved to be the case. Many unethical hearing aid dispensers have simply opted out of ADP, the assistive devices program. It is the consumer who suffered, not the dealer.

People are being offered confusing and in many cases totally incorrect information on purchasing hearing aids from unscrupulous operators who mount extensive advertising campaigns claiming that they are authorized, certified or otherwise approved by either the industry or the government.

Ontario is one of only two provinces that have not seen the need to control the dispensing of hearing aids. We, the consumers, are not wishing to be involved in any internal industry battle as to which profession should be approved to dispense hearing aids. We are, however, deeply concerned as to whom the consumer must deal with to get one.

There is a dire need for clear-cut lines of definition in the titles of those who dispense aids. Audiologists, we know; they have their college and the Regulated Health Professions Act to identify them as such. However, in spite of all the laws and well-intended government regulations, it seems anyone can jump into the business of selling hearing aids that are non-third-party funded with less permit and regulation than it would be if they were to start selling tinned soda pop or candy

bars in the parking lot. All you need is a mailbox number, a 1-800 line and the ability to look innocent seniors in the eye while telling them that this tiny, little, one-size-fits-all hearing aid is just what they need. Yes, mail-order. Just pay the postman; no expense of inconvenient medical tests needed. Parts of western Ontario were blanketed with these recently. Imagine if eyeglasses were being sold with a one-size-fits-all prescription.

Consumers need the protection offered by the regulation of the terms "dispenser" and "practitioner." Consumers need to know there is a body that can discipline those who do operate unethically. The consumer organization will mount a public education program to warn people of the pitfalls of dealing with fly-by-night operations and mail-order dealers, but first we need to have solid definitions to tell people what to look for. The consumers need Bill Pr49 to protect them from a system that presently leaves huge gaps in regulation and consumer protection.

The Chair: Thank you, Mr Ford. Mr Mills would like to ask a question.

Mr Mills: It's not a question, it's just a comment that in fact eyeglasses are sold in pharmacies all over Ontario, and you can go in there and fit your own up and you don't need to go to an optometrist.

Aside from that, my question is not to Mr Ford but to you, Madam Chair. Before I vote on this issue, I think it fair to say that we've heard a great deal of testimony here. If the other members are like me, I've lost sight of some of what they said, and I don't want to do that. I would like to suggest and ask that before we vote, Mr Burrows come forward again. I would like to hear specifically—three governments have spent untold years on this—the effects that this private bill will have on all the work and all the money that's been spent. That will hopefully help make me more aware of what I'm really looking at here, and I'd ask that this happen.

1120

The Chair: Thank you, Mr Mills. I know that Ms Bohnen would also like to respond to a couple of issues, but at Mr Mills's request, I will ask Mr Burrows to come forward and then we'll return to Ms Bohnen to respond.

Mr Burrows: I'll try to keep my comments very brief. I think what you've seen here today is a perfect example of the complexity of these sorts of issues. This sort of thing is what the Legislature endured through the process of enacting these bills that are going to be proclaimed at the end of this year. It's because of the fact that these various interests need to be heard and unbiased decisions made about some conflicting information.

I think it's safe to say you've heard some rhetoric from everybody here, including myself, and there are

some slightly bent pieces of information in some of the other presenters. I think they've muddied the water a bit by getting into a lot of scope-of-practice issues, because the fact is that this profession that's seeking some of the attributes of regulation isn't asking for a part of that controlled act. I'd like to make that clear. But they are asking for certain elements of what constitutes a form of professional regulation, and I think that is the issue.

The government has spent, as you've heard, many years and a great deal of effort and used up a lot of effort of the Legislature and a committee of the Legislature travelling around the province at substantial expense. It's heard from virtually everybody who has had a vested interest in this issue and made a clear decision with respect to who should be a self-governing regulated profession and who shouldn't.

I think you've heard other issues, and I'm not prepared to say whether or not they have weight. They certainly sound like they do.

You've heard consumer concerns.

One of the things that the new legislation does, as I mentioned before and you've heard some other people bring forward, is that it does create for the future an orderly way of dealing with these issues through the advisory council, in which a neutral and open forum would be available to anyone who had a vested interest: They could come forward and make a case, and then a recommendation could be made to the Minister of Health. If the decision were to regulate, it is not inconceivable that the recommendation could come from the advisory council that no, maybe the best answer is not a Ministry of Health act but perhaps some other form of regulation. I don't think they would approach an issue without an open mind. But it would seem to me to be a terrible waste of the taxpayers' money and time and effort to have gone to all this trouble, and three governments have supported it, to deal with this issue in kind of a roundabout way rather than grappling with the issues head-on. I think you've heard concerns of substance and I think that's really the basis of our position from the ministry: Why not give the new mechanism a chance to work?

Mr Hayes: One of the things I'm hearing here from the different people making presentations is, why can't we wait two months? It kind of struck me: Are we saying that in two months, when the Regulated Health Professions Amendment Act is implemented, this will meet the needs of these people here for the Association of Hearing Instrument Practitioners? I keep hearing: "Why now? We've worked on this for so many years and now we're going to have this in a couple of more months and the regulations will be there." Maybe I'm hearing people wrong.

Mr Burrows: No, I don't think anyone meant to convey that suddenly a magic wand would be waved in two months. As a matter of fact, this is now October 13.

We expect proclamation will happen in December. The effective date will likely be December 31, so the new scheme will start operating January 1, 1994.

I think it would also be misleading to assume that each and every significant issue that resulted from the legislative process in 1991 would somehow all be dealt with at once. That's not possible either. What we're saying is that there's a forum, a neutral and unbiased forum, where this kind of turf issue among health professions can be addressed, hopefully in an orderly and neutral way. That was why the review was set up in the first place when two governments ago the Minister of Health of the day estimated he spent 25% to 40% of his time doing nothing other than mediating between the vested interests of various professional groups. And unlike engineering and unlike architecture and unlike other professions, the government of the day, then supported by the government that replaced it and the government now, made a decision to create an entirely new concept, a totally even playing field, including a mechanism whereby these issues could be dealt with in the future in as unbiased a way as possible.

What we're saying is that in two and a half months, that mechanism should be there. Right now the advisory council exists but does not have its full statutory mandate. The Minister of Health could informally ask the advisory council now for an opinion on the matter. But after proclamation, with its full statutory authority, the advisory council could, within its mandate, if requested—and a request would have to come to the advisory council—fully conduct a formal review of this issue and make a recommendation with respect to elements of this bill or other mechanisms or whatever the nature of the reference contained.

Ms Bohnen: You've had a long morning, but I request your indulgence to respond to a number of the points that you've heard. First, I'd like to make this as simple as possible, because you've heard a lot of complex arguments, some going back more than 11 years in time, so let me just bring some concrete facts to bear on this.

There are approximately 237 members of this association who dispense hearing aids, so we're talking about under 300 practitioners who will have the right to use this designation. There are something under 300 audiologists in this province as well. I point this out to you to say that we are not dealing with a problem or an issue or a matter of gargantuan ramifications.

I think the discussion this morning has pointed out and has unfortunately revived past turf battles between the players in this industry, and let's not forget that it is an industry as well as a health profession. But we also heard from one lone representative of the consumer voice, who has told you that hearing-impaired consumers desperately need some better form of consumer protection.

Much of the thrust of my opposition's arguments has been that if they want to be regulated and if they can demonstrate the need for regulation, they should be regulated under the RHPA and the Health Professions Regulatory Advisory Council should be providing the minister with advice on that. But I'd ask you to think about that from this point of view: First of all, one of the criteria by which professions should be regulated or not that the Health Professions Legislation Review applied was, was there some other regulatory mechanism in existence for a profession? If there was and there wasn't any need to bring them into the Cadillac of regulatory systems, the RHPA—if it was the intention that the only forum of public protection in the health sphere could be under the RHPA, then I submit to you that the people of Ontario would be in trouble. As Mr Burrows's detailed description of all of the implementation work since royal assent has described to you, this is a very elaborate, costly system of public protection. It's the Cadillac system.

This profession, hearing instrument practitioners, did not satisfy the HPLR that it met its criteria for regulation primarily for three reasons. One was that there were too few of them to be regulated with a full-fledged college; secondly, that what they did did not carry with it a significant risk of physical harm; and thirdly, that there was not a distinctive body of knowledge. Those were the HPLR's criteria. Nowhere did they say that any other mechanism for public protection was illegitimate.

1130

I'd also like to reinforce with you that it is not the role of the Health Professions Regulatory Advisory Council to advise the government on private legislation. As the act makes clear, the role is to advise the minister on whether unregulated professions should be regulated. AHIP is not seeking regulation. Their existing charter under the Corporations Act contains provisions for registration of the members. For discipline, the bylaws set out a whole scheme for dealing with complaints in disciplines, including the right to fine members. That is not what this legislation would provide. It would simply give them the right to restrict to their members the use of these designations.

I think Mr Burrows clarified for you the fact that nothing within the scope of practice of these practitioners does contradict the Regulated Health Professions Act or infringe the controlled acts that are granted to audiologists. If there's some misunderstanding about that after these proceedings we'll attempt to clear it up.

As to whether it is a conflict of interest for a professional association and governing body to combine the functions of advancement of the profession and public protection and the lack of public accountability, I think I just have to leave with you the fact that unless you're prepared to support voluntary professional associations

and to support them with private legislation such as this, as other private bills on our books do support them, we are going to have less consumer protection than we would otherwise have.

It is simply impossible to regulate every practitioner under the RHPA. The public cannot afford it and the health system cannot afford it, so we are forced to rely upon voluntary associations such as this, and I would submit to you that the government ought to be supporting them, especially when we have a compelling consumer voice here telling you that the public want some protection so they know who is accountable to some body and who is not.

I'm happy to stop there and respond to any questions you may have.

The Chair: Any other questions on behalf of members at this time? Are members ready to vote?

Ms Bohnen: Madam Chair, could I just turn to my colleagues from the association and give them a chance to add anything if they wish to do so?

The Chair: Certainly.

Ms Bohnen: Is that it? Okay, thank you for that.

The Chair: Okay. Not having received a huge, overwhelming response to my last questions to the members, I'll rephrase it. Are the members ready to vote?

Interjections: Yes.

The Chair: Thank you. Shall sections 1 through 11—oh, I'm sorry; I forgot him again. My apologies. Mr Hayes.

Mr Hayes: This bill does not actually affect the Ministry of Municipal Affairs, and we leave it up to the committee, which has heard the different presentations, to make its decision.

The Chair: My apologies to the members for forgetting Mr Hayes. I will now turn to the voting procedure.

Shall sections 1 through 11 carry?

Interjections: Carried.

Interjections: No.

Mr Eddy: I think there's a provision—

The Chair: Yes, I believe there is, from what I hear.

Mr Mills: Maybe there's an easier way to do it.

Madam Chair, it's not for me to direct your role, but there's an easier way of doing this: We address the whole bill in a vote—if needed, a recorded vote—and then that's out of the way.

The Chair: All right. All those in favour of Bill Pr49 as presented before us? Shall we do it as a recorded vote?

Mr Mills: Sure.

Interjection: Not necessary.

The Chair: Not necessary? Okay. All those against Bill Pr49? The bill is defeated.

I would like to take this time to thank the various participants. For someone who has been part of the process in the past, it reminded me of several months of discussions we've had, but I know that the other members did find it an interesting discussion and I thank you for giving of your time this morning.

Mr Mills: I'd like to move that Bill Pr12, An Act respecting the City of Toronto, Bill Pr15, An Act respecting the City of Etobicoke, Bill Pr16, An Act respecting the City of North York, and Bill Pr20, An Act respecting the City of Scarborough not be reported, they having been withdrawn at the request of the applicants.

The Chair: Are there any questions among the other members here about those withdrawals? Seeing none, all those in favour of this motion? The motion is carried.

Mr Eddy: Madam Chair, what's the status of Bill Pr53?

The Chair: We're waiting for the applicant at this point to tell us to go forward.

Mr Eddy: Oh, so it may come forward?

The Chair: Yes, it may come forward. I believe there is no further business at this time, so I thank everyone. Our meeting for today is adjourned.

The committee adjourned at 1137.

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STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

***Chair / Président:** Haeck, Christel (St Catharines-Brock ND)
Vice-Chair / Vice-Présidente: MacKinnon, Ellen (Lambton ND)

*Eddy, Ron (Brant-Haldimand L)

*Fletcher, Derek (Guelph ND)

*Hansen, Ron (Lincoln ND)

*Hayes, Pat (Essex-Kent ND)

*Johnson, David (Don Mills PC)

Jordan, Leo (Lanark-Renfrew PC)

*Mills, Gordon (Durham East/-Est ND)

*O'Neil, Hugh P. (Quinte L)

*Perruzza, Anthony (Downsview ND)

*Ruprecht, Tony (Parkdale L)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Wilson, Gary (Kingston and The Islands/Kingston et Les Îles ND) for Mrs MacKinnon

Also taking part / Autres participants et participantes:

Burrows, Alan, director, professional relations branch, Ministry of Health

Hayes, Pat, parliamentary assistant to the Minister of Municipal Affairs

Clerk / Greffière: Grannum, Tonia

Staff / Personnel: Klein, Susan A., legislative counsel

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Official Report of Debates (Hansard)

Wednesday 3 November 1993

Standing committee on
regulations and private bills

Chair: Christel Haeck
Clerk: Tonia Grannum



Journal des débats (Hansard)

Mercredi 3 novembre 1993

Comité permanent des
règlements et des projets
de loi privés

Présidente : Christel Haeck
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STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 3 November 1993

The committee met at 1004 in committee room 1.

The Chair (Ms Christel Haeck): I'd like to call the meeting of the standing committee on regulations and private bills to order.

OTTAWA JEWISH HOME FOR THE AGED ACT, 1993

Consideration of Bill Pr56, An Act to revive Ottawa Jewish Home for the Aged.

The Chair: We have a quorum so I would call forward the presenters for Bill Pr56, An Act to revive Ottawa Jewish Home for the Aged. Is the sponsor, Mr Grandmaître, he coming along?

Mr Ron Eddy (Brant-Haldimand): I understood that he was over, but I'll certainly do to in his place.

The Chair: If you wouldn't mind, Mr Eddy, I see Mr Grandmaître behind you. You're fast off the mark. I know that you know these folks and would be very happy to introduce them to the rest of the committee and then make any opening remarks.

Mr Bernard Grandmaître (Ottawa East): They're big boys and I'll let them introduce themselves. This is the director, Joel Taller.

Mr Joel Taller: Joel Taller and director Steven Schneiderman.

Mr Grandmaître: Thank you, Madam Chair. Sorry, but I was in a committee.

Mr Eddy: Yes, I heard about that. What a job.

Mr Grandmaître: Yes, what a job.

Madam Chair and members of the committee, the Ottawa Jewish Home for the Aged is applying to revive the Ottawa Jewish not-for-profit home for the aged. This corporation was dissolved by the Ministry of Consumer and Commercial Relations on September 8, 1992, for default in complying with the Corporations Information Act. Despite the dissolution, this corporation has been operating successfully and we're appearing before you this morning to revive this corporation. To my knowledge, there has been no objection.

The Chair: Very good. Mr Taller or Mr Schneiderman, did you have any comments to make at this point?

Mr Taller: I'd just like to add to what Mr Grandmaître said. The lodge commenced operations in 1965 with the intention of establishing accommodation for ambulatory aged. There's a staff of 55 full-time and part-time employees. There are 46 residents of the lodge itself, ranging in age from 70 to 99 years. There are six full-time and part-time nursing staff and there's one medical director and an attending physician.

The investigation of the records indicates that for some inadvertent reason the appropriate form didn't get filed in time and as such the corporation was dissolved. As Mr Grandmaître pointed out, it has continued to carry on operations. It's an accredited home for the aged and to my knowledge has filed all other forms and kept up with its filing requirements either for the federal government

under its charitable status or for the provincial government under its status as a home for the aged.

The Chair: Very good. I was just going to quickly ask if there were any other interested parties in the audience who would like to come forward at this time. Seeing none, I will recognize Mr Hansen.

Mr Ron Hansen (Lincoln): I would say the government supports this bill. Our side has no problem with it.

The Chair: Very good. Mr Parliamentary Assistant, did you have any comments to make at this point? See, I didn't forget you this time.

Mr Pat Hayes (Essex-Kent): Thank you, Madam Chair. Mr Grandmaître explained it very thoroughly there and certainly has taken away any questions. The Ministry of Municipal Affairs does not have any objections to this bill.

The Chair: I will turn to the other two members present. Any comments or questions?

Mr Eddy: No, I have no questions. We support the application.

Mr David Johnson (Don Mills): Simply to say that I have two homes for the aged, not Jewish homes for the aged but two homes for the aged, in my riding and they do excellent work. I'm sure you do excellent work and I'm happy to support your efforts.

Mr Taller: Thank you very much.

The Chair: Very good. I take it the members at this point are ready to vote? Agreed? Very good.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

The bill is carried. Thank you, ladies and gentlemen, for your participation.

Mr Taller: Thank you very much.

Mr Eddy: You can now go back to work.

The Chair: Yes. Take a coffee along with you.

Mr Grandmaître: You're being very generous.

The Chair: I know.

1010

INSTITUTE OF MUNICIPAL ASSESSORS
AMENDMENT ACT, 1993

Consideration of Bill Pr50, An Act to amend the Institute of Municipal Assessors.

The Chair: I would like to call forward the presenters for Bill Pr50, An Act to amend the Institute of Municipal Assessors.

I take it the gentleman sitting down right now is Mr

Shea. Is that correct? Are you Mr Shea?

Mr Jack Lettner: No, ma'am. My name is Lettner. Mr Shea was unable to be here.

The Chair: All right, Mr Lettner. In the absence of Mr Perruzza, I'd like to introduce you to Mr Fletcher who will at least introduce you to the committee. If there are some comments you'd like to make, Mr Fletcher, about what is transpiring, we can move right along.

Mr Derek Fletcher (Guelph): On behalf of Mr Perruzza, I'd like to introduce Bill Pr50, An Act to amend the Institute of Municipal Assessors. It's up to you, sir.

Mr Lettner: Madam Chair, members of the committee, the purpose of this is we have a membership of some 1,300 people, and at an annual meeting to change bylaws or to vote on bylaws some 200 people show up. The members of the institute would like to have the option of a write-in ballot to change bylaws, change fees and change the working agreement of the institute, and that's the purpose of the bill.

The Chair: Thank you, Mr Lettner. Are there any other interested parties in the audience who would like to come forward at this time? Seeing none, I'll open it to the parliamentary assistant to make any comments with regard to this particular bill.

Mr Hayes: Do I go first this time?

The Chair: Yes, nobody else raised their hand so it's your turn.

Mr Hayes: This bill does not actually affect the Ministry of Municipal Affairs. Also, neither the Attorney General nor the Minister of Consumer and Commercial Relations has any objections to this bill. But we do have two minor amendments, just the title, and I'm sure you're aware of that.

The Chair: Maybe you would read that into the motion.

Mr Hayes: I move that the long title of the bill be struck out and substituted with the words:

"An Act respecting the Institute of Municipal Assessors of Ontario."

The Chair: Are there any questions on that particular motion? Seeing none, all those in favour of the motion? It is carried.

And your further motion?

Mr Hayes: I move that section 3 of the bill be struck out and substituted with the following:

"The short title of this act is the Institute of Municipal Assessors Act, 1993."

The Chair: Are there any questions with regard to that particular motion? Seeing none, all those in favour? It's unanimous; it is carried.

Are there any questions on behalf of the members at this point? Mr Eddy and then Mr Johnson.

Mr Eddy: I expect the reason for this is simply that the members of the Institute of Municipal Assessors are scattered far and wide across the province of Ontario to the far corners, and the speaker himself of course may be somewhat remote from the city.

Mr Lettner: We have membership in practically every province. Most of our members are in the province of Ontario, but we have members in Alberta, Saskatchewan and Prince Edward Island.

Mr Eddy: Oh, really? I didn't realize that.

Mr Lettner: The institute is set up to educate municipal assessors, and where they don't have an educational body in their province we have been doing that for them too.

Mr Eddy: I was not aware of that and you're to be commended for that, for an educational program that's received far and wide.

Mr David Johnson: Good to see you again, Jack. It may not be totally on—

Mr Lettner: I'm no longer in assessment.

Mr David Johnson: This may not be totally on topic, but you mentioned different provinces that are involved, different parts of the country. Is there anywhere across the country that has a 40-some years old, out-of-date assessment such as Metropolitan Toronto?

Mr Lettner: Not to my knowledge, no.

Mr David Johnson: That's what I thought.

Getting a little bit maybe more back on topic, but I'm glad you made that comment, I gather with the write-in you've looked at the possibility of control problems that you might have.

Mr Lettner: We have that, yes.

Mr David Johnson: You have that all in hand, do you?

Mr Lettner: I think we have everything together. The ballots are clearly marked and they come back into the office and we control them from there.

The Chair: Let us move forward and ask the question if we're all ready to vote on this.

Shall sections 1 and 2 carry? Carried.

Shall section 3, as amended, carry? Carried.

Shall the preamble carry? Carried.

Shall the title, as amended, carry? Carried.

Shall the bill carry? Carried.

Very good. You have a motion, Mr Hansen?

Mr Hansen: I'd like to move that the actual cost of reprinting be remitted on Bill Pr50, An Act respecting the Institute of Municipal Assessors of Ontario.

The Chair: Did you have any explanation with regard to that?

Mr Hansen: No.

The Chair: Just as a comment: There was a mistake in the title, so that's why that—

Mr Fletcher: Are we voting on this?

The Chair: Yes, there would be a motion here, so any other questions on that?

All those in favour of the motion as put forward? Carried.

We have all of our business transacted. Thank you, Mr Lettner. No, sorry. I have one final point: Shall the bill be reported to the House? Agreed. Very good.

I'd like to call forward Mr Wilson and the people here for Bill Pr59, which is An Act respecting the City of Kingston.

Mr Gary Wilson (Kingston and The Islands): They're not here yet, Madam Chair.

The Chair: They're not here yet.

Mr Gary Wilson: It should be soon.

COUNTY OF HASTINGS ACT, 1993

Consideration of Bill Pr52, An Act respecting the County of Hastings.

The Chair: I think what we'll do is we'll move forward with Bill Pr52, An Act respecting the County of Hastings. If Mr Johnson would like to go to the table in front of us and join the presenters, please, perhaps you'd like to introduce the presenters.

Mr Paul R. Johnson (Prince Edward-Lennox-South Hastings): On my left is the warden of Hastings county, Joe Best; on my right is past warden Larry Hartin. I'm sorry, Larry, I'm not sure exactly what your official capacity is at this point in time, but we're going to find out soon, I know that.

Mr Larry Hartin: Chairman of the county review committee.

Mr Paul Johnson: On my far right is Bill Bouma, the administrator of Hastings county.

The Chair: Continue with any remarks.

Mr Paul Johnson: Would you like me at this time to move the bill and then we'll continue?

The Chair: No, if you would just make some introductory remarks and then the presenters or the applicants will have time for presentation.

Mr Paul Johnson: Okay. At this time then, first of all, I want to say, as the sponsor of Bill Pr52, that I have no opinion either pro or con with regard to the bill. However, it has been brought to my attention that there are a number of representatives from Hastings county who are not in favour of it. I think that should be on the record here.

Other than that, I might add too that in a regular meeting of council the motion to present the bill was passed by a vote of 20 to 17, I believe, and therefore that would give it the necessary impetus from the county to move forward through this process.

So here we are today before the committee to speak to Bill Pr52, An Act respecting the County of Hastings. At this point it might be appropriate to turn it over either to Mr Larry Hartin or to Bill Bouma.

1020

The Chair: Mr Hartin, would you like to continue with your presentation.

Mr Hartin: If I could start off with just giving you a bit of background on the topic, as a result of the Tatham report and through the Ministry of Municipal Affairs, different counties in the province requested restructuring studies. The province started 12 studies and allocated a resource person for counties to undertake an extensive review of their operations and their relationships with separate municipalities.

In September 1990 the county recommended that the Ministry of Municipal Affairs be requested to accelerate the allocation of a resource person for the Hastings county review study, and the county administrator was requested to draft a plan and timetable as to how and when to proceed with the county review. In the spring of 1991 the county was told that until the government analysed the results of the studies already under way, they were not going to allocate any people for any new studies.

The present government has indicated that it will not be considering any further county studies along the same vein as the original studies. This being the case, the county decided, upon instructions from council at its January 1992 meeting:

"That it be recommended that the county review committee not proceed with internal boundary restructuring at this time, but that it should diligently monitor and participate in any area development restructuring/planning that may in the future affect the county. And further that the committee make recommendations to county council as to the form and jurisdiction of county government, its committees and their relationship to municipalities within the county."

Procedures towards a county study: As the county was still committed to the idea of a county review, and taking action on the above-mentioned council decision with respect to the form of county government, on April 6, 1992, the county review committee moved the following:

"That this committee review the County of Hastings Act, 1973, and request input from the constituent municipalities and, further, that the county administrator send a letter to all these municipalities outlining the reasons for the review."

Letters to all municipalities were sent out in the summer of 1992, and the county received responses from 22 out of 27 municipalities. These responses were then reviewed by the county review committee.

The responses included a few suggestions for change, including changing to the ward system for election or discounted equalization assessment, but the county review committee believes that in a democratic society, the voting privileges have to be based on the number of electors who are being represented.

The main concern of the committee was the ever-increasing size of county council after every election so that Hastings county is now at 35 members representing some 63,672 electors and a population of 59,165, and also the fact that in Hastings county it is governed by the standing committee system where a lot of the working business is dealt with in these committees and then gets reported on to county council. It is difficult to ensure that all council members have an opportunity to serve on a standing committee due to the size of county council.

I might add at this time that we do have five standing committees with six members on each committee plus the warden, so you can see where there are 35 members of county council to the present day and there's only room for 30 members on these respective committees.

There will be, of course, a monetary saving, but this

was not brought forward as a major consideration. We did look at the idea of the saving, but we didn't believe that was a major factor.

The committee also believes that a county councillor attending a county council meeting is representing the ratepayers of the community. At the last council meeting in September, a recorded vote was taken on an issue. Just to give you some indication of what happens with the two members from a respective municipality, four out of eight of the deputy reeves present that day voted against their respective reeves on this particular issue, thus cancelling out their votes. This happens quite frequently in our county system.

The Municipal Act, subsection 69(1), RSO 1990, chapter M.45, 1993 edition, states that the reeve is the head of council and the chief executive officer for this corporation.

After reviewing responses from different municipalities on the composition of council, the committee reported to county council in January 1993. A copy of the report is included in your compendium. This report was adopted on a recorded vote where, once again, two of the eight deputy reeves voted against their respective reeves.

As my concluding remarks, with the increasing size of council at every election—and just to give you some background, in 1988, we had 33 members; in 1991 we had 35; in 1995 it looks like we could possibly have 37—it is therefore becoming increasingly more difficult to accommodate members on county standing committees. The proposed amendment would reduce the number of councillors to 27.

In the adopted rules of order, each Hastings county councillor may speak on an issue for 10 minutes. Therefore, full discussion by everyone is sometimes difficult to accommodate. A smaller council would allow for more debate and a more informed, effective, efficient and involved council. This would assist every member of council to carry out his or her responsibility to ensure the effective operation of the county. Representation by reeves only still ensures that each municipality is represented.

The cost of attendance at county council sessions would be reduced, although as I said earlier, this is not a major factor in the decision to recommend the change in the composition of council. Hastings county wants to continue to be accountable to its taxpayers by coordinating and providing for its citizens integrated public service through innovative and cost-effective policies and procedures.

I'd like to thank you for the opportunity to present this information to you this morning.

The Chair: I will turn to the other gentlemen present, if they have any additional comments to make on this presentation.

Mr William Bouma: Not at this time.

The Chair: Thank you, sir. Mr Johnson alluded to the fact that there are some people present who have some different views. I would ask them at this time to come forward. It may be that you'll have to vacate your chairs to allow the other people to come forward.

Mr Johnson, would you please take the opportunity to introduce these two gentlemen.

Mr Paul Johnson: On my left is Carl Tinney, representing the township of Faraday, and on my right is Ralph Swan, representing the township of Thurlow.

The Chair: Mr Tinney, if you'd like to begin then.

Mr Carl Tinney: I represent Faraday township. It's with great pleasure and honour that I've been invited here to speak in regard to this bill. As in my letter addressed to this committee on August 10 of this year, I feel that the amendment to the act would be detrimental to the electors, of my township anyway. An amendment would reduce the voice of the people in the township who want to have two representatives there. Unlike Mr Hartin, if my deputy reeve desires to vote against me, then I think my ratepayers are getting a better point of view, because I may be taking a singular view of this.

As stated in the resolution passed by the council and circulated to the representative municipalities of the county of Hastings for endorsement, removing the deputy reeves and their accompanying votes may prove expedient to the south, but it would definitely affect all municipalities from the north in a drastically negative way. As this county represents both north and south, the fairness of this decision is definitely in question.

1030

I would like to point out to this committee that the following member municipalities supported this resolution: Tudor, Cashel, Thurlow, Wollaston, Tyendinaga, Herschel and Mr Hartin's own township council of Hungerford. Therefore, with the support of these fellow member municipalities, I would request that the committee give great thought and consideration before making a decision on this matter. The problem is that north of Highway 7 we are small townships and we need all the voices we can get, because we're pretty well controlled from the south.

Mr Ralph Swan: Madam Chairperson, it is a great pleasure that we are able to come here to voice our opinion and objection. The literature I received from the Ontario Municipal Board said no one was against this. Well, I presume when you receive literature that we are against it, it means that we're not totally in favour of it.

Now, I don't know if any of you members have read the previous literature I had sent in to this board or not, or if you've all got a copy of it or not, but you must remember that Hastings county is 54 kilometres wide and 235 kilometres long, consisting of the 24 townships and eight villages, which have 27 reeves and eight deputy reeves. The 27 reeves and the eight deputy reeves make up the total of Hastings county. For county council to eliminate the deputy reeves from the heavily populated area would reduce a fair representation on county council by the local taxpayer.

At present on county council we have seven members on each of the following committees: roads and bridges, homes for the aged, finance and property, personnel, planning advisory and land division, economic development. We also have three members who sit on the other committees, like Hastings joint social service and

Belleville General Hospital, Hastings-Prince Edward health unit, Children's Aid Society for Hastings, Belleville and Trenton. We also have members who sit on the Quinte Exhibition and Raceway; suburban roads committee, which we share with the city of Belleville; North Hastings children's service; the museum board; and the 911 tricity emergency service committee, which has five members.

There is representation on all of these committees, and we feel for the public to be properly served they either should keep the deputy reeves or go to a ward system. There is a lot of work required and sound judgement on these committees, and we feel that to have fair representation from the electorate we need to maintain at least the standard we now have.

Before there is a cut to keep only reeves and county council, we would request that you look at the ward system which is used by school boards in the province. They, at present, have only a few in Hastings county, but more wards could be added to serve the population equally. As the population increases in federal or provincial areas, you keep changing the boundaries to accommodate the electorate. Why could the same process not take place in local politics?

I hope this is not a waste of our time and yours, that you will consider the whole picture before you make your final decision. I feel that before a major vote on this should have taken place, before they were going to eliminate deputy reeves, it should have been a two-thirds majority instead of just a simple majority.

In the county of Hastings, the largest municipality is 17,000 and the smallest is 260. So therefore, if you eliminate the deputy reeves, there will not be the voice on county council. You heard the first speaker just speak about the deputy reeves voting against the reeves. Well, he also voted against what his municipality had said to county council. He did not abide by that. He voted against it. So here, again, if the reeves are not going to properly voice the opinion of their local councils, what are they doing there?

I'm not in county council for the money or the thing I get out of it. It's just for the good of the county and the people we work for. I hope you will consider this decision before you give this your royal assent. Thank you.

The Chair: Thank you, Mr Swan. I would take the time to assure you that your opinions are not only recorded for posterity as a result of these microphones, but definitely provide useful information in the decision-making process that will proceed.

I do have an obligation at this point to ask if there are additional people present who might have some comments with regard to this bill and call them forward. Seeing none, I will—

Mr Hansen: Excuse me, Chair.

The Chair: I have a question from Mr Hansen.

Mr Hansen: Yes. This—let's call it—restructuring going on within the county of Hastings, is this a new restructuring that just sort of came up in the last year or is this something that's been talked about for five or 10 years, so we have a better understanding?

Mr Tinney: This time, I think it just came up recently.

Mr Hansen: How much discussion went on? It was 20 to 17; was this at, say, one meeting or over a series of meetings that were carried on?

Mr Swan: I would say there wasn't proper dialogue taking place on it to give us proper—to take it back to our local municipalities we represent. I felt it was voted on and acted on a little too soon. It should have been tabled with a little more discussion or we wouldn't be here today defending our position.

Mr Hansen: Not coming from the area, we are listening to both sides to make a decision as members of this committee, so this is why I've asked you some of these questions. I think maybe I should hear from the other side also, the same question.

The Chair: We have the two Mr Johnsons who'd like to comment, but Mr Johnson on this side was first.

Mr David Johnson: I'd just like to ask a couple of questions. Perhaps I'll start with Reeve Hartin, if I could. As I understand it, the objective of this bill is simply to reduce the size of the county council, is it? Are there any other objectives that you're hoping to achieve?

Mr Hartin: No, at the present time it's just to reduce the size of the county council. But as I said in my remarks earlier, one of the main concerns is that members of the county council aren't well enough informed because of the committee system and the vast number of members on county council, and we strongly feel this would give every member of county council a better opportunity to be involved in the workings of the committee system.

Mr David Johnson: Was there an objective with regard to cost savings associated with this at all? Is that one of the objectives?

Mr Hartin: A very minor one. The cost saving was discussed, but we didn't do it based on cost.

Mr David Johnson: The vote was 20 to 17. I assume that most of the members of this committee would probably be hoping that it would have been a bit more unanimous. Could you tell us how that's split down? There's been some suggestion that it was north versus south. Is there a split on a geographical basis on this vote?

Mr Hartin: I'd have to refer to our county administrator for the proper answer on that, but I do feel it was quite a mixed reaction. Maybe you could get the information from Mr Bouma, if he has it.

Mr David Johnson: I was just wondering, is this pitting one part of the county against another or is it just sort of—

Mr Hartin: My answer to that, I'd have to say no.

Mr David Johnson: Would it be primarily the deputy reeves who voted in the minority and the reeves who voted in the majority?

Mr Hartin: There were a number of deputy reeves who voted against, but—

Mr David Johnson: Of the eight, would all eight have voted against this?

Mr Hartin: No, they did not.

Mr David Johnson: All right. So it's split in that regard. You're hoping to have this implemented for the elections of next year then, obviously?

Mr Hartin: That's correct.

Mr David Johnson: All right. I guess I'll pass for the moment.

Mr Hartin: If I could just respond to one question that was asked before I came to the table here, Madam Chair: This process did start back in 1990, so it is not something that happened overnight.

1040

Mr Paul Johnson: I want to say that certainly what we're dealing with here specifically is the bill and the notion, as Mr Swan indicated, that it would be nice if we had a ward system, is admirable and probably would be maybe in the best interest of representation. However, that's not what we are here to debate, unfortunately.

I did have a chance to meet with Mr Hugh O'Neil, representing the riding of Quinte and also the township of Sidney, out in the hall just before I came in, and unfortunately he had to go to another meeting and couldn't be here now. He indicated that he was supportive of this idea. I know that's hearsay at this point in time; I just find it interesting, though, that he does represent Sidney township and it is unfortunate that he can't be here.

I've got before me here the way the votes have been placed. I see there was a split in Sidney township between the reeve and the deputy reeve. I must go back and say I am not either for or against this bill per se, because I'm just the sponsor. However, let me say this: The two townships that I represent provincially, Thurlow township and Tyendinaga township, both their reeve and deputy reeve voted against supporting this bill, so it would certainly, I guess, give direction to me to be opposed to it on that basis.

However, given the notion that democracy as it's practised in the province of Ontario and within our municipalities is as it is, there was certainly a majority vote on the council of 20 to 17. Mr Swan raises an interesting aside to this, and that's the notion that maybe it should have been a two-thirds majority that would have maybe better represented the broader constituency of Hastings county as they dealt with this matter.

I just raise these as some interesting aspects of this proposal; however, I didn't want this opportunity to be passed by. I'll leave it at that for now.

The Chair: I believe, Mr Tinney, you had a response to make and then I will turn to Mr Eddy.

Mr Tinney: Yes, Madam Chairman. I would like to bring to the attention of this gentleman here that—he was talking north and south—this bill would eliminate all of the deputy reeves north of Highway 7, and some south of it as well. I come from north of Highway 7. That would mean we would only have one voice down there per township.

Mr Eddy: I'm interested in hearing from the county why the act is before us at all, because in the Municipal Act there are alternative systems for representation from

local municipalities and county council, one of which of course is reeves only, but I believe in that case, the case of reeves only, the voting power on county council is multiples of 1,000, it seems to me, whereas if you go to limited deputy reeves, which apparently Hastings already has, the representation is based on 2,500 electors and indeed the voting power is based on 2,500 electors.

So the bill is before us and I expect it has to do with an alternative system of voting power for those reeves who will be representing local municipalities on county council. Could you give us some insight into that particular matter?

Mr Hartin: If I may, the voting rights of members of county council would be dealt with in multiples of 4,000, where any municipality with one to 4,000 electors, and I repeat electors, would get one vote; over 4,000 to 8,000 would get two votes; 8,000 to 12,000 three votes; and so on up to a maximum of five votes, which would be the case in Sidney township at this point in time.

All other municipalities would be treated the same way. Any municipality with over 4,000 electors would get the second vote. In my personal opinion, I feel that every municipality's being dealt with fairly based on the number of electors in that municipality.

Mr Eddy: In fact you feel that the proposed system would be a fairer vote on behalf of constituents and perhaps would be closer to rep by pop—I know it's still a long way from that—unless you go to a decimal voting system, or as proposed in Ottawa-Carleton, a basis of 1,000 votes so the smallest gets one. Do you feel that it is a fairer system then, voting on county council on behalf of residents? That's really what you represent on county council, the residents of the municipalities.

Mr Hartin: I strongly feel that this would be the fairest system we could come up with at this present time.

Mr Eddy: It's always a difficult decision to make, and very controversial, but I compliment the county in dealing with the matter and perhaps proceeding on a road to some changes to update, shall I say, county government. I wanted to compliment Mr P. Johnson, if it is the case that he does not wish to get embroiled in local county politics.

Mr David Johnson: There's another question or two I forgot to ask. I'll ask perhaps anybody who may wish to respond to this. In terms of the general public, we've heard of the process that you were involved with elected representatives. Could you tell me a little more specifically how the general public got involved and what their views might be on this proposal?

Mr Hartin: I'd have to say that as far as the general public being involved is concerned, I don't know to any great degree they've been involved other than just by members of county council like myself talking to them and telling them what our proposal was. The response I've had has been very positive.

Mr David Johnson: Have there been any meetings? Obviously you've had county meetings. Have there been any citizen groups or ratepayer groups, that sort of thing, that have been involved?

Mr Hartin: Not to do with this issue, no.

Mr David Johnson: So as far as you are aware, the people of Hastings county are not opposed to this proposal?

Mr Hartin: I haven't heard of any cases where they are.

Mr David Johnson: I wonder if—

The Chair: I was going to ask, did you want any of the other—

Mr David Johnson: Yes.

Mr Tinney: I'd like to respond to that.

Mr David Johnson: I'd like to hear from both sides.

Mr Tinney: I would like to respond that our council voted against this bill, and so did several others. I assume that the people who sit on my council do represent my ratepayers, and therefore I would suggest to Mr Hartin that yes, they have had a voice in it and 17 people said, "No, we don't want this bill." Therefore, there would be that percentage of ratepayers in those townships that would be against it.

Mr David Johnson: I can understand. I've been a mayor myself for a number of years and I know there are a number of issues that take place and you don't always directly have the opportunity to discuss each one of them with all of your constituents. I would never pretend that I spoke on behalf of all of my constituents on any given vote.

I guess I'm asking, are there any specific reasons, letters or deputations, of that nature, that would lead you to believe, beyond the vote of the 17, that the people of Hastings county are opposed to this suggestion?

Mr Tinney: I can only speak for the people I've actually talked to. I know the ones I talked to in my own township are against this bill when you discuss it with them because they feel that they're not getting a proper representation in the south part of the county. This is the problem that arises from this. We are so far removed from the south end of the county that you just don't feel that you're getting the proper representation.

Mr David Johnson: I understand that you're opposed to the reorganization and opposed to the loss of the deputy reeves. If that does happen, though, do you have any concerns with regard to the formula that is being suggested that Reeve Hartin, I think, outlined, that for every 4,000 people there's an extra vote for the reeve up to a maximum of five votes, I think? I haven't heard you speak to that. If this does go through, then is that a satisfactory arrangement? Does that represent some form of representation by population?

Mr Tinney: Not really, I don't think so, because the 4,000 eliminates everybody north of Highway 7 to one vote. Then it starts to pick up in the south. So what you're actually doing is, anything south of Highway 7 could overrule the north at any time.

Mr David Johnson: How many people are we talking about, north of Highway 7?

Mr Tinney: I really wouldn't have a clue how many people. They're small townships. It's just that, you get the feeling that what you want to get through down there

most times doesn't materialize because you don't carry enough weight or votes to do much about it.

1050

Mr David Johnson: The main thrust that's been put forward here is that this bill would allow for the greater participation of the members in the committee work, whereas at the present time you have more members, I guess, than you have committee spaces. What is your view on that?

Mr Tinney: My view is that in the rundown I did on it on all the standing committees and other committees that we have, each member would have two seats on all of those committees, standing and otherwise, the hospital committee and all these others. Each member would be able to sit on two committees if they were divided up equally. But the way it seems to run now, there are a number of people who are sitting on four major committees and there isn't room for the new people coming in.

Mr David Johnson: The reason I ask you is because apparently you have five committees and six members on a committee. Is that right?

Mr Tinney: That's right, yes.

Mr David Johnson: That leaves 30 spots, but you have 35 members at the present time.

Mr Tinney: Yes, but we also have other committees like the homes for the aged and those types of things that people do sit on. I have no problem with phoning someone who's on a committee that I'm not on to get information. I don't know why the problem would arise that we're not well enough informed.

The Chair: At this point, I would like to turn to the parliamentary assistant, Mr Hayes, for his comments.

Mr Eddy: Uh-oh.

The Chair: Come on now, Mr Eddy. Be positive.

Mr Hayes: This is a really good example of sitting on the fence. There have been precedents set in other counties, in Lambton and Simcoe and others for these types of bills. So as I said, the Ministry of Municipal Affairs does not object to this bill. Like I said, we're sitting on the fence.

Mr Eddy: I had hoped for a somewhat stronger position from the Ministry of Municipal Affairs, given that the bill to restructure Simcoe county, whereby local boundaries—of course, at the request of county council; I must add that—will change representation on county council, the voting system, and given that there are alternatives in the Municipal Act whereby the Hastings county council indeed could have accomplished exactly what it's doing here by number.

But the bill is before us because I think it's been stated that they see it as a fairer system of voting than going to strictly deputy reeves only and perhaps the number of votes. I know it's a very difficult ordeal for a county council to reconstitute itself. But it does, I would expect, make for a smaller, more workable county council.

Mr David Johnson: This is a tough one, but I guess the bottom line is that you have to respect the democratic vote. I've been through circumstances that can identify with some of the situations that have been described here

today, sitting on a regional council of 34 members, which is quite analogous, that council being the Metropolitan Toronto regional council, and representing a municipality where we had two members on that council, East York being the smallest member of Metropolitan Toronto and we had two members: I as the mayor and the other person not as a deputy reeve but as a regional councillor representing East York.

We didn't always vote the same way. There were occasions when I voted one way and he voted the other way and sometimes some of the members of council would get annoyed that we cancelled out each other's vote, but that's democracy. I can tell you that the people of East York wouldn't always be unanimous on every topic that came to the regional council, so to some degree, that may have reflected the view of the people.

I know that the deputy reeves have fulfilled an excellent service to the people of the county of Hastings over the past number of years and I can well understand their feelings in terms of this particular bill and the loss of their experience at the county level. That's certainly something that gives one pause.

The 20-17 vote is one that we all look at that and say, "Too bad it wasn't much more decisive."

Mr Paul Johnson: One vote could have changed it the other way too.

Mr David Johnson: I've been involved in a lot of votes myself on the regional council that were as close as that, one vote one way or the other. I'm afraid the majority rules and you respect that and you move on.

I must say that I give the county credit in terms of the scheme it's come up with in terms of the number of votes for every increment of 4,000 population. I think that's very innovative. Reference has already been made to Bill 77 and the Ottawa situation, and a similar scheme is being looked at there in terms of the organization of that particular region. I think that's perhaps a positive outcome.

While I understand the feelings of both sides, I think in this case the county of Hastings has had a vote. They've taken a position, and as a former municipal representative, I know that once that's done, the counties and municipalities generally expect their view to be upheld and acknowledged. In that case, I as well will not have an objection to this bill.

Mr Hansen: I'm going to support this bill. I have a rural area also, in Niagara, with some very small towns, and yet representation on the regional level is about what you're talking here.

I have a mayor who is trying to build a town hall and people are objecting in the community, but not the majority of them. These people are coming to me as the provincial member to get involved. This is something that I think we have to hand back to the municipalities. The municipalities and the counties are the ones that make the decision, because it is the people in this area who voted them in, and I think we have to go along and support the decisions made by these councils out there. It has been three years that it's been going on. It's not just a resolution at one meeting saying, "This is where we're going."

I feel it's been thought out. I think the people would have got to their representatives on how they want to do it. I have to wind up by saying I'm not going to take sides, but I believe the majority of 20 is still a majority in a democracy.

Mr Hayes: Just in response to Mr Eddy, who has quite a bit of knowledge of the municipal acts and municipal council over the years, the municipal act does not allow, at the present time, for them just to make these changes without coming with this bill.

An example would be where it talks about, "If a local municipality has not less than 16,000 municipal electors, the reeve shall have five votes." The Municipal Act allows for three, I believe it is.

Like I said, this is a county council decision and that's why I'm saying that Municipal Affairs is not objecting one way or the other on this particular bill.

The one concern that was raised, of course, was when you talked about the reeve and the deputy reeve voting in opposite directions. I would suggest that if municipal council decided to go one way on an issue and you had one person out of that council who didn't vote the way his municipal council or township wanted, then you'd have to deal with that probably through the electors.

Once the motion is made, Madam Chair, there is an amendment to this. It's just a housekeeping amendment when we get to it.

The Chair: Yes. Do we have another comment from Mr Eddy at this point?

1100

Mr Eddy: Yes, just a very short item. Under section 27 of the Municipal Act, there are alternative systems for the composition of county council and that's what I was referring to. It was that there were reeves only, but it's tied to, I believe, a vote of 1,000 electors, and then there's the alternative of establishing reeves who go to county council on the basis of 2,500 electors. I think the vote there is based on 2,500.

So I guess, to conclude, the easiest way to do it would be to amend the Municipal Act and allow county councils indeed to determine their composition, realizing that every municipality of course must be represented in some way. That would meet the needs of the county councils across the province because there are several private bills for the composition of county council where the system and the alternative systems don't really fit to the satisfaction.

The Chair: Mr Hartin, you had a comment to make?

Mr Hartin: Yes, Madam Chair, just very quickly, the vote of 20 to 17 has been emphasized here somewhat this morning. I'd just like to point out to the members that our rules of procedure do allow for a reconsideration. Some time after the original vote was taken—and I say "some time"; I can't tell you exactly, but it was at least a couple of months—a member of county council did bring forth a motion for reconsideration and he couldn't get a seconder. So I think that sheds some light on the 20-17 vote on the original motion.

The Chair: Mr Swan, you had an additional comment to make. I think after your comment, we'll have to move

to the vote because I believe generally there's been a pretty full discussion.

Mr Swan: I'd just like to refer to what Mr Hartin said. The reason they couldn't get a seconder, it had to be from the other side, the side that voted on the yes, and that was the reason that didn't take place at that time. So if the one person who carried two votes had voted on the yes side and voted on the no side, it would have been a reverse decision.

I'm very sorry to sit here and listen to you people give a deaf ear to Mr Hartin saying his municipality voted to leave the deputy reeves and he voted against it to keep the deputy reeves off. I'm very sorry to hear that you fellows didn't—that didn't come across to you.

The Chair: May I ask if the members are ready to vote at this time? Yes. Shall sections 1 and 2 carry?

Mr Hansen: I believe we have a motion also that—

The Chair: I believe it's for section 3.

Mr Hansen: Three, okay.

The Chair: And I'm asking about 1 and 2. Shall sections 1 and 2 carry? Carried.

Shall section 3 carry? You have an amendment?

Mr Hansen: Yes, on subsection 3(1), I move that paragraphs 3, 4 and 5 of subsection 3(1) of the bill be amended by striking out "not less" in the first line of each paragraph and substituting "more" in each case.

The Chair: Any questions on that particular motion? Seeing none, all those in favour of the amendment? Carried.

All those in favour of the section, as amended? Carried.

Shall sections 4 through 7 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill, as amended, to the House? Agreed.

The bill is carried as amended. Thank you, gentlemen, for your input today.

CITY OF KINGSTON ACT, 1993

Consideration of Bill Pr59, An Act respecting the City of Kingston.

The Chair: We have one more bill today. That's Bill Pr59, An Act respecting the City of Kingston. Would Mr Wilson and the applicants please come forward.

Mr Gary Wilson: I just want to begin by commending the two deputants from the city of Kingston for their efforts in getting here, because they really made it in record time. I've done that trip a lot of times and I know—

Interjections.

Mr Gary Wilson: No, they came on Via Rail and I think that also is a commendable thing to do.

Interjection: They came coach.

Mr Gary Wilson: They came coach. I thought that would be fairly non-controversial. Anyway, I will begin by introducing Norman Jackson, who is city solicitor, to

my immediate left, and to his left is Rick Fiebig, the city treasurer, and they have come to Kingston to talk about this bill.

The Chair: They've come to Toronto.

Mr Gary Wilson: Sorry, to Toronto, to talk about the tax assistance program that this bill represents, and I will turn it over to them briefly to describe what the bill involves and to answer any questions that the committee might have.

Mr Norman Jackson: I'll start, thank you, Madam Chairperson. The city of Kingston went to market value reassessment this past year and experienced some of the difficulties that have been experienced elsewhere, including Toronto, from what we read, and other places. We were facing the difficulty of dealing with some of the hardships that could result from something that was intended to make things fairer overall. In doing so, we found that, particularly in the residential sector, there was a need to deal with people who would suffer perhaps from seeing their taxes proceed quickly to where they ought to, but in a faster manner than would suit their status.

This bill has been proposed in the same manner as bills from other municipalities, including North York and Mississauga, and I understand Oakville, to deal with hardship situations involving two categories of persons: those who are on provincial or municipal assistance, and secondly, those who are elderly. Really, we believe the bill is confined to those groups and should not pose a financial hardship on other taxpayers.

Mr Fiebig is present, both as our treasurer and our acting chief administrative officer and can indicate that our present debt capacity in the city is well below Ontario Municipal Board limitations. We believe we have almost \$55 million in unused debt capacity. We don't expect that this bill will result in significant increases in that capacity. We expect perhaps there would be several hundred applicants. We've already spoken with a number of people who are interested. There is interest definitely in the municipality and we hope to proceed this year with a local bylaw advertising and to proceed in the same year as the market value assessment took place.

1110

As a result, if you're all in agreement with it, we hope that this could be read and passed in the House as soon as possible so we could do something this year. We understand there is some interest in when the bill may terminate, and since North York had to come back and seek a second bill for a later market value assessment, we're not proposing to have a sunset clause in it. Since there isn't a large debt that we're anticipating accruing from it, we would ask that there not be a sunset provision in the bill—we haven't proposed one—and in fact we could see ourselves in need of this legislation again in perhaps five years.

We would ask for your support and are prepared to answer any questions that may come from the committee.

The Chair: We have two committee members who have questions. The first is Mr Johnson and then Mr Fletcher.

Mr David Johnson: I don't think I have any basic objection to this. I know that at the municipal level, we've discussed doing this here within Metropolitan Toronto, in East York, for a number of years. The problem was where to find the money to pay for it, so I guess Kingston has somehow sorted that out. Just a couple of things come to mind.

There have been numerous reported incidents of fraud in the family benefits system, in the general welfare system, and I wondered if the municipality had come to grips with that, that you may have applicants who are not eligible recipients, but are somehow receiving family welfare family at any rate, and they may be applying for relief. Have you discussed that aspect?

Mr Norman Jackson: As a matter of fact, we have. We've seen the reference to greater policing of the system in other municipalities. I believe there was a discussion. I'm not sure, Mr Fiebig, whether anybody was hired to look at that, but I know we are paying attention to that. It has been raised and debated at the council level. Do you want to answer that, Rick?

Mr Rick Fiebig: The city is doing a review of whether they will hire an eligibility review employee. Presently we do not have one, so it's under review right now by our social services department. Each one of the applications we receive under this program would be reviewed, not only by the city solicitor's office and myself but also by the social services department.

Mr David Johnson: So you hope you would somehow weed them out.

Mr Fiebig: We would like to try, yes.

Mr David Johnson: Good luck. The program itself doesn't seem to be able to weed them out.

This is for just owners, so tenants would not be included, tenants in terms of people who are renting residential properties. In Metropolitan Toronto about 50% of the people are actually tenants. I don't know what the proportion is in Kingston. I imagine it is much lower. This is usually one of the issues that has come up around this, that this is geared towards home owners but tenants don't get an equivalent sort of situation. Was that discussed at all?

Mr Norman Jackson: I think that is a good point. We have not included tenants in this. In the city, we do have more tenants than some of our surrounding municipalities, per capita, but the problem that has been experienced has been more with the ability of home owners to meet the demands of the municipal residential tax rates. I think we're going to meet that demand first, and then deal with any problems later.

Mr David Johnson: I don't really want to get into a debate with you on it. It's not my intention. But if there was a tenant organization here today, the representative would say that they pay taxes too, but indirectly, because the owner of the building pays taxes and part of their rent is taxes, and if the municipal taxes go up through market value assessment or whatever reason, then their rents go up, so they usually look for the same kind of consideration.

Finally, this would be a lien against the property.

Would this take precedence over any mortgage? Would this be first call once the property's disposed of? Would the city have first right?

Mr Norman Jackson: Yes and no. I guess there are two types of liens that could be in the legislation. We're proposing a lien that will be registered and will not take precedence over other encumbrances, other mortgages. It will, however, take precedence on the date of the death of the applicant. This is a deferred proposal only, so that upon the death, then we will have first call at that time. That's all we think we need. We have discussed with North York and Mississauga how theirs worked, and apparently it did work well. We don't think we need the precedence over an existing mortgage. We just won't loan if there's too much debt on the property. We'll look very carefully at that before we loan, and there will be criteria set out in the bylaw as to how we'll do that.

Mr Fletcher: Just on a couple of things: The deferral of taxes up to \$1,000 per year is a little steep, isn't it? That's more than what most municipalities—they're around \$150 a year or something. I was just wondering where the \$1,000 mark came from.

Mr Norman Jackson: We have looked at that carefully and we first off agree it is higher. The other \$150 marks were at an earlier point in time when times were different in terms of what the value of the property was as well. We have looked at the number of applicants, the size of our municipality compared to some of the other ones which were larger and may have had some more concern about their own financial ability to carry it. We have an existing program with senior citizens under legislation at \$100, and there are no more than several hundred applicants who take advantage of that, so we do not see a problem.

We do think we'll be putting some work into this, and if there's some work put into it, in looking at the average home owner's taxes of approximately \$2,000, we think it's fair to go about halfway.

Mr Fletcher: Okay, that sounds good. I'm in support of the bill itself, so if my questioning kind of makes it look like I'm not, don't worry about that.

The other thing was the sunset clause. You explained about being opposed to the sunset clause, but I see the sunset clause as a form of protection as far as the continuance of deferral of taxes is concerned. You don't like the sunset.

Mr Norman Jackson: No, I don't think we do because, first of all, this is permissive legislation to enact the bylaw. We feel the municipal council could repeal the bylaw any time it saw fit.

More important, once we get into market value reassessment, we see it continuing in the future. We have put some time and effort and money into this. There is everything from advertising to printing costs and delays with implementing it, because other municipalities had to come back and do almost exactly the same thing.

Mr Fletcher: Right.

Mr Norman Jackson: We think we can handle this without a sunset clause.

Mr Eddy: I'd like to, through the representatives of

the Kingston city council, commend the council for its humane approach to this problem of reassessment and much higher taxes. I've read the detail that was attached to the bill with interest and noted the figures and the increases, and I can understand the hardships, so we commend you.

I think it's well received, and I certainly support it with the view that I would hope in the near future the ministry would look at this matter and have a change to the act, allowing any municipality that wished to proceed on this basis to have similar permissive legislation. I think that's very important. I think it's important, when it comes to talking about the amount, to allow the councillors elected by the people to make some determinations, and the amount is one.

I also am opposed to a sunset clause, simply because the city can repeal the bylaw, if it so wishes, so there's control there. Congratulations and thank you.

The Chair: Mr Hayes, did you have any comments to make at this time?

Mr Hayes: Yes. The Minister of Municipal Affairs does not object to this. I was going to just point out the difference in the bill when you talk about the sunset clause and the amount, but that's already been discussed around the table, so we do not have any objections.

However, when it comes time for section 3, paragraph 1, I'll move—unless one of the other members would like to move an amendment to this.

The Chair: Okay. I would take it, then, seeing no additional questions, members are prepared to vote.

Shall sections 1 and 2 carry? Carried.

Section 3? Mr Fletcher, would you read the motion.

Mr Fletcher: Yes, section 3, paragraph 1: I move that paragraph 1 of section 3 be amended by striking out "single-family" in the second and third lines.

The Chair: Any questions about that particular amendment?

Seeing none, all those in favour of the amendment? Carried. All those in favour of the section, as amended? Carried.

Shall sections 4 through 9 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill, as amended, to the House? Agreed.

Mr Eddy: Today.

The Chair: Since Mr Eddy is making the comment, I will inform our applicants here that in fact I will report the bill to the House this afternoon. The final reading of the bill will happen fairly quickly, so you will not have to wait an exceedingly long time for this to go forward. I won't give you an exact date, because I could be wrong.

I do appreciate your time and the fact that Via Rail delivered you expeditiously to our committee. Thank you.

We're adjourned until we have an adequate number of bills to consider.

The committee adjourned at 1121.

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*Perruzza, Anthony (Downsview ND)

*Ruprecht, Tony (Parkdale L)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Johnson, Paul R. (Prince Edward-Lennox-South Hastings/Prince Edward-Lennox-Hastings-Sud ND)
for Mr Mills

Also taking part / Autres participants et participantes:

Hayes, Pat, parliamentary assistant to the Minister of Municipal Affairs

Clerk / Greffière: Grannum, Tonia

Staff / Personnel:

Klein, Susan A., legislative counsel

Mifsud, Lucinda, legislative counsel

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Wednesday 17 November 1993

Standing committee on
regulations and private bills

Journal des débats (Hansard)

Mercredi 17 novembre 1993

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règlements et des projets
de loi privés

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STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 17 November 1993

The committee met at 1003 in committee room 1.

COUNTY OF GREY ACT, 1993

Consideration of Bill Pr58, An Act respecting the County of Grey.

The Chair (Ms Christel Haeck): Ladies and gentlemen, we'll call the meeting of the standing committee on regulations and private bills to order. Our first act of business today is to consider Bill Pr58, An Act respecting the County of Grey. The sponsor for this bill is the MPP for Grey, Bill Murdoch. Bill, would you like to take your place and bring your applicants forward and introduce them for us all.

Mr Bill Murdoch (Grey-Owen Sound): We have with us the warden of Grey county, Howard Grieg; the CFO of Grey county, Norm Gamble; and Milt Bellamy, the reeve of Keppel township. Howard, you're going to explain a bit about the bill?

Mr Howard Grieg: Thanks, Bill, and thank you for the opportunity to come before the committee this morning.

Grey county has taken a look at the reorganization and reducing the size of county council. It's a bill that would allow for that to happen, to go from the existing 37-member council to a 28-member council. We need a legislative change to allow for that. We want to go to a weighted voting system that would allow municipalities to have a vote for every 1,000 electors. That requires a change also. Those are the two major things we're looking at.

We presently have a 37-member council, but we have the potential for eight more members coming on to county council, and it was felt that it was time this issue had to be addressed. We did a fairly extensive review of a questionnaire out to all municipalities, and further reviewed by the warden's committee. As chairman, Milt Bellamy looked after that. This is what we've come up with that seemed to be most suitable for Grey county.

It wasn't unanimous, the position we have taken. There was some difference of opinion whether the number should be 4,000 electors where you have your deputy reeve, 5,000 electors where you have your deputy reeve, or whether there should be any deputy reeves. As our proposal states, we're proposing deputy reeves after 5,000 electors.

I don't think I have much more to add at this time. We'd certainly be prepared to attempt to answer any questions you may have.

The Chair: Thank you very much. Just to reassure the applicants, this is pro forma: I have to ask if there are any interested parties here who have a different view. Seeing none, I would turn to the parliamentary assistant at this point and ask him if he would present any comments from the Ministry of Municipal Affairs.

Mr Pat Hayes (Essex-Kent): The Ministry of Municipal Affairs does not have any objections to this bill.

The Chair: We have a question from Mr Hansen.

Mr Ron Hansen (Lincoln): What was the vote on this when you actually went ahead to restructure, the up to 5,000 for municipalities there for a vote, or a vote for every 1,000? There was a vote taken between all the members of council. What were the results of the vote? Can you remember?

Mr Grieg: I believe there were 23 for the proposed changes.

Mr Hansen: And how many against?

Mr Grieg: I believe 14, if they were all there, something like that. But as I mentioned, the ones opposing weren't definitely against the fact that we wanted to reduce the size of county council. It was their opinion that 4,000 might have been a more appropriate number, or 7,500 might have been a more appropriate number, or that there'd be no deputy reeves at all. It wasn't a vote against restructuring or reducing the size of county council as such.

Mr Hugh O'Neil (Quinte): This is similar to the one that was passed by the committee a couple of weeks ago considering Hastings county, or something similar. There were no objections to that one either.

Mr David Johnson (Don Mills): I don't really have any objections either. I'm sorry; I got in a couple of minutes late. It's just that I wondered: In the process you went through to arrive at the conclusion, which seems to be a very democratic one and the majority of the people support it, was there involvement with the electorate at large as well as the council members?

Mr Grieg: No, there weren't any public meetings held. It was done through the municipal councils, a questionnaire, and through county council.

Mr David Johnson: But I presume that the people knew you were discussing this topic.

Mr Grieg: Certainly through the media the public is well informed that this is going on, and it went through the advertising process before it could get this far. The public is very supportive of it. I've had numerous comments, as well as different members of county council, that it should have happened years ago. The public is very supportive.

The Chair: Very good. It would appear that all questions have been answered. I would ask the members if they are prepared to vote at this point. Agreed.

Shall sections 1 through 5 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Gentlemen, your work is completed.

Mr Grieg: Thank you very much, Madam Chair, committee members.

1010

CITY OF TORONTO ACTS, 1993

Consideration of Bill Pr48, An Act respecting the City of Toronto, and Bill Pr61, An Act respecting the City of Toronto.

The Chair: Ms Akande, perhaps you would like to come forward as sponsor and introduce the applicants.

For the benefit of the members, the city of Toronto would like to consider both of the bills—that's Bill Pr61 and Bill Pr48—together. They will be making a presentation to us, I believe with some video backup. But we will be voting on them separately, just so we keep all that straight for organizational purposes.

Ms Zanana L. Akande (St Andrew-St Patrick): I'm going to introduce you to Mr Martin Silva, who will introduce his colleagues.

Mr Martin Silva: Mr Dennis Perlin is the city solicitor and Mr Ward Earle is the assistant specifically for this. Mayor Rowlands is unfortunately unable to come today. She's doing some streamlining at the city of Toronto and she asked me to come and represent her before the committee.

Ms Akande: In the spirit of streamlining, thank you. I'm pleased to introduce to the standing committee two proposed City of Toronto Acts, Bills Pr48 and Pr61, dealing respectively with the regulation of vending and other activities taking place on a street allowance and the establishment of vending removal zones in city of Toronto parks.

You have already been introduced to the gentlemen who are here. They will continue with the discussion.

Mr Silva: I can make the first introduction and Mr Perlin will go with the more legal detail.

As a representative of city council and a member of the vending committee while the committee met to try to find solutions for all these problems, I come to you today to express council's concern that the city of Toronto be allowed to effectively and fairly regulate the use of the city street allowance and city parks so as to provide the maximum benefit, both to those persons who have a commercial interest in the use of those areas and the public at large, and at the same time allow for orderly vending throughout the city of Toronto.

From my own experience, I can tell you that the city of Toronto receives many applications each year respecting the use of the street allowance for things as varied as vending, boulevard parking, boulevard cafés and various installations such as fences or trees.

Competition for the use of the street allowance in certain areas of the city, particularly the downtown core, is intense and requires that the city of Toronto have the clearest sort of regulatory power in order to properly administer a permit system which is effective in terms of balancing the rights of permit holders with the interests of the public at large in a safe and orderly way.

The city of Toronto is particularly concerned with its ability to protect the rights of those who have gone through the proper legal channels and have complied with the requirements of the existing permit system. Unfortu-

nately, it's not always the case and we sometimes have a lot of illegal activity in competition with the people who have gone through the municipal process.

Having said this, it is essential that the use of public property by private commercial interests be subject to an appropriate form and level of regulation to ensure the health and the safety of the public.

The second bill that is being proposed, Bill Pr61, has been brought forward in recognition of the fact that the enforcement problems which previously existed in relation to vending within the street allowance have now spread to city parks. What happens is that the vendors who before were mostly on the street, now that we have acquired the ability to take away their vending carts, have moved into the city parks.

The City of Toronto Act, 1990, was introduced to address this problem in the street allowance and has been quite effective. Similar legislation is therefore being sought for city parks. Along with the normal concerns occasioned by the presence of illegal vendors, such as obstruction, safety and damage to public property, is the fact that the city has already licensed space in its parks to private individuals who operate concessions in the parks and pay a portion of their revenues to the city in exchange for that opportunity.

Without the establishment of vending removal zones which would allow city staff to confiscate and remove illegal vehicles or objects found in city parks, there would appear to be no effective enforcement mechanism to allow the city to protect the interests of the public and its authorized concession areas.

I thank the committee for the opportunity to be here today. The city solicitor, Mr Dennis Perlin, will present you with a detailed view of what is being sought and we can answer questions after that presentation.

Mr Dennis Perlin: Assisting me today in the presentation, in case you have technical questions, are people here from the department of public works and the environment in relation to Bill Pr48 and in relation to Bill Pr61, dealing with parks. There are also people here from parks administration, from the parks and urban forestry division of the parks and recreation department. If there are technical questions regarding the existing permit system on the street allowance or in respect to the use of the parks, both those individuals will be here: Mr Kelly from the public works departments and Ms Valliere from the parks and recreation department.

Also, I believe there will be two individuals who will be speaking to you after us with respect to their concessions within city parks. I believe the letters from those concession areas in terms of the eastern beaches parks and the western beaches parks have been circulated to you or will be circulated to you.

Bill Pr48, regulation of activities on the street allowance: The request to put this forward by city council arises basically from two Supreme Court of Canada decisions, *R v Sharma* and *R v Greenbaum*, and consequent legislation that you, as the Legislative Assembly, provided to the city of Ottawa last year.

The activities that you see listed in the bill are

boulevard parking, operating a boulevard café, carrying on a sidewalk sale, displaying merchandise, installing bicycle stands, marquees, hedges, fences or other objects and, of course, street vending as well.

At the present time there is, as Councillor Silva said, a successful permit system in place which is used to regulate these activities. The total number of applications received last year for these activities, not including installations, was 796 in one year alone. At the present time, there are 2,095 permits or licences which have been issued for these types of activities on the street allowances in the city.

Many public highways within the city have been designated as removal zones—not all, but some—under the legislation, which allows us to take away from the street allowance those who do not have a permit through the municipal process, as Councillor Silva said. This present system of providing permits and designated removal zones in those areas that are difficult areas in terms of vendors acting illegally has been effective. There's no immediate intention on the part of city council—I've been asked to make sure the committee is aware of this—to change the system.

The purpose of Bill Pr48 is to clarify the legality of the present system, and this comes from a recommendation from the city solicitor's office reviewing the effects of the recent Supreme Court of Canada decisions, as I said, in the cases of *R v Sharma* and *R v Greenbaum*. In those cases, the defendants were accused of vending on a Metro road without lawful authority, and in its review of the statutory authority allowing the municipalities of Metropolitan Toronto and the city of Toronto to regulate streets activities the court applied a strict interpretation to the Municipal Act and found that the relevant bylaw provisions were ultra vires Metro and the city. In particular, the court held that the Municipal Act did not allow municipalities to make distinctions between free-standing vendors and the owners or occupants of abutting property for the purposes of issuing permits.

In my view, one result of this decision is, for example, that an owner or occupant of premises used as a restaurant may not be allowed, as is the case in the city's present boulevard café system, the first opportunity to refuse the use of the adjacent street allowance for that particular restaurant's boulevard café.

1020

In fact, it appears that where a municipality wishes to allow boulevard cafés, then any person may apply for a permit and the municipality may be unable to refuse an application from an applicant who is the owner, for example, of an adjacent restaurant who's trying to block or get an advantage over the actual restaurant that abuts on the particular street allowance concerned. This result is clearly unfair and ignores the fact that there are legitimate policy reasons to favour applications from the owners and occupants of commercial premises in coveted locations, such as the city's downtown core, who have earned the opportunity to use the street allowance in front of the premises in accordance with city policy and the right to have that area protected should they choose not to use it.

City council is cognizant of the fact that there is stiff competition for street allowance space in certain areas of the city and, in order to protect the interests of those using this space and allow for different activities to be carried on productively and safely in the same vicinity, has come to the conclusion that explicit regulatory powers are now required to maintain an effective system of regulation.

We brought with us some videotape, and I'm going to just see if the committee wishes to see it. It is videotape that was prepared and presented to the committee in 1990. It is indicative of the problems that were posed for city officials by the proliferation of vendors in an illegal way and that prompted the need for the 1990 legislation, the removal legislation. For those who are familiar with the city, the areas that you would see in the tape would be the Eaton Centre, the Bloor-Yorkville area, the Harbourfront area, the Spadina-Dundas-Queen area, commonly referred to as Chinatown, the SkyDome and the St Lawrence Market.

I could interrupt at this time and go into the videotapes or continue and finish the presentation and then do the videotapes at the end, if you still wish to see them.

The Chair: I will ask the members if they are interested in the video.

Interjection.

The Chair: Mr Johnson would like to know how long it is.

Mr Perlin: This particular videotape on the street allowance activities is about 20 minutes long and the one on the parks is about 15 minutes.

Mr David Johnson: I wish it was a little bit shorter.

The Chair: Yes. I think what we'll do is if there's someone interested, they can ask you about it later, but we'll leave it for right now and allow you to finish your verbal presentation, because I do know there are some people here who would like to express another view.

Mr Perlin: Fine. Perhaps after expressing that other view, you could then show the videotapes.

The Chair: We're in the hands of the committee members.

Mr Perlin: The legislation as proposed would clarify the city's ability to pass bylaws regulating or prohibiting street activities through the exercise of the powers that are set out in the proposed bills, sections 3 and 4. As I said, the wording of the bill follows closely the City of Ottawa Act, 1992, and would in addition clarify, arising out of the *Sharma* and *Greenbaum* decisions, the city's right to restrict the issuance of defined classes of permits to persons meeting the criteria established by council, including the owners or occupants of abutting property. That you'll see in clause 4(j).

The bill talks about the ability to designate spaces and grant the exclusive use of such spaces, the ability to prescribe the classes of permits and the types of goods which may be sold, so they can be shared between boulevard cafés and sidewalk cafés and vending and hedges and fences and trying to allow for those different types of uses that are requested of a municipality for the

use of the street allowance; the power to establish design criteria for the equipment that is used to display goods, for the merchandise display or sidewalk sales; the power to exempt certain classes of applicant from parts of the bylaw; the ability to establish required administrative procedures for the issuance, renewal or redistribution of permits; the power to establish fees and the term of the permits; the power to regulate hours of operation; and the ability to establish criteria to be applied to determine locations where activities may take place.

All of these enumerated powers one could see presently in the existing city bylaw regulation systems. There's nothing that this bill would do that isn't already being done. As I said earlier, we're really clarifying our legal ability, in light of the Supreme Court of Canada, to continue to do this.

Section 5 of the bill would allow city council, a committee of council or a municipal official named in the bylaw to suspend or revoke a permit issued by the corporation pursuant to a bylaw passed under this legislation. In order to ensure due process and natural justice, a hearing would be required before a permit may be suspended or revoked for a substantive reason. You have in front of you a requested amendment that deals with the lack of payment of a fee, what is really a process issue to ensure that people do pay their fees and that their permit is not in effect if they don't. Obviously, under the bylaw, if they pay the fee, their permit is renewed. But for a substantive reason for revocation or suspension, before that could occur, it would have to go before a committee for a hearing.

In the case of those administrative requirements in addition to the payment of fees, the other ones we're asking for, the amendment relates to the liability insurance or their entering into permit agreements which set out clearly what it is that the permit holder, for whatever the activity is, can do in the space concerned.

Where a permit is revoked, the part of the fee paid proportionate to the unexpired part of the term of the permit may be refunded to the permit holder. The legislation would also allow the municipal officials to suspend permits for a limited period of time to allow the use of the designated space for special events, road repairs or to address safety concerns.

Basically, that's Bill Pr48, which, as I said, clarifies legally the present system that we have.

Bill Pr61, removal zones in city parks: The commissioner of parks and recreation for the city of Toronto has had a long-standing concern relating to trespassing in city parks by illegal vendors and the damage and disruption caused by their presence. Some of you who live in the city and others of you who visit the city have occasion perhaps to go to some of the major city parks and see some of the vending activity in the parks. If not, as I said, we have a video that will demonstrate this for you.

It would allow the city council to designate any park or portion of a park as a removal zone and to prohibit the stopping, parking or placing of any object, vehicle or thing used for vending purposes within city parks without a valid permit issued by the city.

Under the legislation, the police and any other persons entitled to enforce municipal bylaws would be able to request the production of a valid permit and, where no permit was produced, remove the vehicles, objects or things and place them in storage. If they weren't claimed within 60 days, then these objects and materials would become the property of the city. Where the objects confiscated include perishable items, these would immediately become the property of the city and would be destroyed or given to a charitable institution.

The costs and charges for removing these vehicles, objects or things would constitute a lien on the material removed and would be enforceable by the city under the Repair and Storage Liens Act, so it's basically bringing the Repair and Storage Liens Act into the handling of matters that are confiscated in those parks that are designated removal zones.

It would provide for signage to be put up, as you can see in the bill, in those that are designated. As I indicated earlier on the ones on street allowance, we haven't designated every street allowance as a removal zone because not every street allowance is a problem. We only do it on those that are problem areas. Again, with respect to parks, it would only be for those parks where vending has become a problem in terms of the illegal activities being carried on there.

It's intended that the powers contained would be used to enforce the provisions of the parks bylaw. This parks bylaw prohibits the sale of goods, wares, merchandise or food and the display or distribution of those without a permit. I've been informed that, again, this legislation would be just working in conjunction with the permit system we presently have.

The areas that are in the tape and the major areas of concern to us in terms of the parks are the eastern beaches, western beaches, the Harbourfront park and the park surrounding the CN Tower. For those of you who have been around the SkyDome, there are park areas that are outside of the SkyDome area—it's hard to know when you're walking there—that are not CN areas or road allowance areas. At times, those can be very difficult areas in terms of people trying to move in and out of the SkyDome in terms of illegal vendors being in the parks areas. There are certain vendors who are actually regulated to be in the location. The illegal ones are the ones who obstruct and cause the difficulty.

The concerns for the park are obstruction, damage and hostility. We've had normal park operations obstructed by access to parking lots and park buildings. We've had damage through the presence of litter and grease stains, damage to vegetation. Obstructions to the pedestrian passage have also led to adjacent foliage and grassy areas, where pedestrians are seeking alternative areas around these carts, being damaged.

1030

Finally, the area of licensing and concession agreements: One of the few areas that municipalities have with respect to raising revenues aside from property tax is user fees. In the case of the western beaches, the eastern beaches, concessions have been granted to certain people by way of a proposal-call process in each of those areas

to have the exclusive use of those areas in terms of concessions, and in exchange they pay fees to the city.

The presence of illegal vendors has caused a continual source of frustration for these concessionaires, leading to friction, confrontation and, frankly, potential for real violence. The normal process of ticketing and fining, as in the case of street allowance, has not been effective. What has turned out to be effective on the street allowance and what we're asking in the case of these parks is the taking away, the removal and storing of the equipment and requiring people to pay storage charges. That seems to have a more salutary effect on people, an immediate effect, in terms of complying with city bylaws.

Basically, I'll leave it at that and be prepared to answer any questions you might have. As I've said, Bill Pr61 is basically just bringing the street allowance, the City of Toronto Act, 1990, that you already gave us, into the parks situation.

The Chair: Thank you, Mr Perlin. We have a question from Mr O'Neil.

Mr O'Neil: I notice in the statistics you handed out that of the 81 applications for boulevard cafés, 44 licences were approved; for merchandise display, there were 174 applications, and again about half, 84, approved; sidewalk boulevard vending, 357 applied for, 207 approved. How do you determine who gets those permits and who doesn't get them?

Mr Silva: We have a process where every application goes through the city services committee. In the specific case of the boulevard cafés, if they are within 25 metres of a residential zone there's actually a poll that goes out to all the residents within the area. There is a minimum requirement. At least 25% of the respondents have to send their ballot back, and out of that 25%, they have to respond in the affirmative. This is in the case of the permit parking. In the case of the boulevard café, if the poll goes out and comes back positive, city council has the option then of granting the boulevard café. There are various polls that are done.

Mr O'Neil: What about the merchandise display?

Mr Silva: In the case of merchandise display, there are certain regulations. For example, if a cart came with an application to vend hot dogs, the location would have to be within certain criteria. We have the people from public works here if you require details on what the criteria are. A certain width of the sidewalk would still have to remain free. It would have to be 25 metres or more away from a licensed restaurant. There are various criteria we would apply to approve the permit.

Mr O'Neil: Who sits on the committee that deals with this? How many people are on it?

Mr Silva: Eight members of city council. That's the city services committee. The city services committee then makes recommendations to city council through the executive committee, and then council has the final say.

Mr O'Neil: Is there an appeal process?

Mr Silva: Yes, there is an appeal process. For example, if the city services committee were to say no to an application—or in the case of vending, if the public works department that has been delegated the power to

say yes or no—the applicant who is denied can appeal to the city services committee under certain circumstances.

The Chair: Mr O'Neil, a gentleman has come forward to more specifically answer any of your questions.

Mr O'Neil: I think that has covered it.

The Chair: Okay. Mr Johnson?

Mr David Johnson: To the deputants, there are a number of issues that will be raised by future deputants after you've sat down and I don't know if you'll have the opportunity to come back and speak to them again. One I happen to be looking at indicates that they feel there's an unfairness in the city having the power to regulate the hours of operation. Does the city at present, under the present system, have the power to regulate the hours of operation?

Mr Silva: Yes, we do. For example, I support about 90% of the applications for boulevard cafés. But in the case where it's in an area where there has been opposition by the residents, we usually put a condition that the operation of the boulevard café be limited to certain hours.

We don't have limits on the hours of operation of the vending carts except where they are, for example, on a street where parking is not allowed between 4 and 6 or between 7 and 9 in the morning.

Mr David Johnson: Bill Pr48 would give you the authority to regulate the hours of operation of cafés, for example.

Mr Silva: I believe we have that already.

Mr David Johnson: You may have that already, up to a certain—perhaps not after 1 o'clock in the morning or midnight or something of that nature.

Mr Perlin: We're doing that now under the present bylaw, trying to use present provisions. Being very frank, it's hard to know what the effect of Sharma and Greenbaum is. The concern with that decision and the City of Ottawa Act, 1992, is whether or not we do have the authority to do so.

Mr David Johnson: I guess we have to determine what we're talking about, first of all. Are we talking about the vending machines, the portable—

Mr Perlin: We're talking about all of the activities that I described first: boulevard cafés, vending, merchandising, sidewalk sales, all of those activities.

Mr David Johnson: That's quite a range. Some of them would be associated with the adjacent business and some of them would be portable that would come in and just be—

Mr Perlin: That's right.

Mr David Johnson: My guess is that you might have some authority with regard to those that are adjacent to the business, but probably you don't have a lot of authority today in terms of the portable ones that come in and plunk themselves down on the sidewalk. Is that true?

Mr Perlin: That's the argument. What we're trying to do is clarify.

Mr David Johnson: The reason I'm asking this is because you've indicated a couple of times that this bill

doesn't give you any more authority than you have today.

Mr Perlin: We're not asking for any more authority than that which we have today.

Mr David Johnson: But in the case of hours of operation for vending, the portable wagons or whatever you call them that come in, I would think—

Mr Perlin: In terms of regulating activities on the street allowance, we have always thought we had that authority by virtue of the general power to regulate on the street allowance. By virtue of the very limiting language of the Supreme Court in terms of what municipalities can do back to the days of putting everything into pigeonholes, as you know from your past experience as a mayor, we had hoped we were moving away from the days of everything having to be pigeonholed and into a little broader powers. Our concern is that the decision has taken us back to everything having to be absolutely expressed before being able to do anything as a municipality.

Mr David Johnson: When you are saying it doesn't give you more power, you're saying by comparison to the power you thought you had before the legal case.

Mr Perlin: That's right.

Mr David Johnson: But by comparison to the judgments of the courts—

Mr Perlin: It's open to argument.

Mr David Johnson: —it's open to argument. The vendors also apparently indicate that this would allow you to set design criteria for the vehicles and the kind of foods as well. Did you think you have that authority today?

Mr Perlin: We thought we did.

Mr David Johnson: Okay. I didn't realize we had all that authority. Were you being realistic?

In terms of the fee structure, there are a number of concerns here with regard to how the fees are being dealt with, but this bill really doesn't enhance that, I don't suppose, does it?

Mr Perlin: No. It clarifies that we do have the right to establish permit fees, which may vary by activity, location, type of goods or refreshments. That would then be part of the bylaw. Those who have difficulty with that, we would hope, would approach the city council and deal with city council.

Mr David Johnson: So that perhaps is not an argument that we should get involved with one way or the other. That's really up to the city council, I would guess, although we may hear a different argument.

Mr Perlin: That's the way the regime is being presented, yes, that the matter be left then to city council.

Mr David Johnson: I'm still a little unclear about how this impacts on Metro roads. Does this apply to all streets within the city of Toronto or just city of Toronto streets?

Mr Perlin: To city of Toronto streets and those that Metro delegates responsibility for to the city. As you may remember, under the Metro act, Metro can delegate responsibility with respect to the maintenance of the Metro street allowances to the local municipalities to look after.

Mr David Johnson: But that would be Metro's choice. This bill doesn't give the city of Toronto any authority to unilaterally usurp authority in Metro.

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Mr Perlin: No. Only if Metro decides to give that to the area municipality.

Mr David Johnson: It puzzles me a little why you don't have authority in your parks today. That's something I was unaware of. Perhaps our parks haven't been that attractive to the vendors, I don't know, but the parks belong to the city of Toronto. Why would you not have the authority today to require the removal of vehicles or carts or whatever from city property and city parks?

Mr Perlin: Again, there's nothing expressed in legislation that would say we do. We could try and use the Trespass to Property Act, but the problem we have with that is that the police just are not able to provide the type of enforcement that's necessary in terms of an immediate response and/or providing police constantly in the parks.

Second, the police have indicated that as far as they are concerned, based on the legal advice they've received from legal counsel of Metro, they are not able to have things just picked up and taken away. They can issue a ticket; they can do an arrest, which is not something they normally would like to do on a trespass situation. But if there is to be removal—and the same sort of argument actually came up during the time the matter was here on the street allowance, because again one can argue that the Trespass to Property Act applies to the street allowance. At that time we came for the removal legislation because it was felt there was not power for the police to actually pick up and take the material away in terms of responding to trespassing. They could ticket, they could arrest, but not remove.

The issue of being able to respond quickly and deal with it quickly, which we're able to do by virtue of using our own city workforce by the removal legislation is a lot quicker in terms of getting an immediate solution to the problem. Second, it's the lack of authority, even when the police are available, to be able to remove. It makes it obviously more difficult for a vendor if every time they illegally vend, they're going to be faced with the idea that the material's going to be taken to a public works yard and they're going to have to go down and pay storage fees and get it back.

Mr David Johnson: In your opening remarks, was there some reference made to a committee that has considered these amendments to boulevards? Is there a business committee of some sort that—I can see from the blank looks on your face—

Mr Perlin: No.

Mr David Johnson: Other than through the council itself, is there a business committee within the city of Toronto that would review these matters and make recommendations?

Mr Silva: This comes to us through the city services committee, which would regulate vending.

Mr David Johnson: That's the elected representatives. Do they seek input from various businesses within

the city of Toronto or the business improvement areas or—

Mr Silva: It's open to deputations. All of the matters that come to the city services committee are open to deputations such as what we are doing here today.

Mr David Johnson: Do you recall if there were deputations other than from the vendors themselves, from the downtown businessmen, for example, that sort of thing?

Mr Silva: Not about the specific regulations we are seeking today, but before, when we had the problems with the illegal vending in the city of Toronto—and I must say that on the streets, when we finally managed to keep the vending under control is when we acquired the ability to take away the carts. At that time, there were very extensive deputations at the city services committee. Lately, we haven't had. This specific issue came here because of the Supreme Court decision, which basically told us we did not have the authority we thought we had.

The Chair: I have a couple more questions. Mr O'Neil, what I'm going to do is, before your second round, I'm going to ask some of the people who have differing views from the deputants to come forward so we get a chance to have that discussion.

Mr O'Neil: The question I had dealt with something they likely are going to refer to. It was about how long a person has that specific spot—

The Chair: Actually, Mr Hansen is before you. I wanted to make sure I wasn't taking anybody out of order but also, just to inform you, in light of the fact that this subject is going to be discussed at some length, I want to make sure everybody gets a chance. Okay?

Mr O'Neil: Fine. No problem.

Mr Hansen: I'd like to hear the objectors, and I'd maybe have some questions at that point. One of my questions has already been answered.

The Chair: All right. If I could ask the city folks to join the audience again, I understand there are some people who have some different views. There is a Mr Peter Bougadis, president of Delight Vending Services, if he would come forward. It would be helpful, Mr Bougadis, if you would introduce your colleague.

Mr James Skells: My name is Skells, and I'm appearing for Mr Bougadis in connection with the position he'd like to put forward regarding this bill. He has three points that are of particular concern to him.

Mr Bougadis has been in the business of ice cream vending now for 25 years in the city of Toronto. He has two trucks which he uses for this purpose and has been actively engaged in the business during that time.

I think it's also relevant to let the committee know that Mr Bougadis, and people like him, are not simply fly-by-night operators. They have substantial amounts of money invested in their businesses. For example, Mr Bougadis's vehicles cost in excess of \$35,000 and must be equipped in accordance with the requirements of Metropolitan Toronto licensing. He is proud of the kind of product he sells, and over the years in the locations where he has been selling, in front of Toronto city hall and also down

on Queen's Quay, he has developed a clientele who like his particular product. He's proud of the business he operates and it's not just something that is here today and gone tomorrow. He's put a lot of work and effort into it.

These are some of the causes for his concern about the bill.

His major concern is that although he has been in business for all this length of time, if I read this bill correctly, then his licence could be cancelled without any particular reason being given and he would not have any real right of appeal to have the reason reviewed. A business he has established over a 25-year period could be lost to him overnight.

He does not feel this is an equitable position to take. When any other business is, for example, expropriated and terminated, it's hedged around with all kinds of protection for the person who is being expropriated so that it can be determined whether the expropriation is fair.

We feel some provision should be included in this bill requiring some form of appeal procedure other than to the city services committee. The problem with the city services committee is that the commissioner of public works and the environment, whose responsibility it is to vet the particular applications for a location, sits in and advises that committee on a constant basis. The end result is that one wonders, when the matter comes before the committee and the committee is hearing from the commissioner, who is almost a member of that committee, whether a fair and impartial hearing is being given to the applicant about whether the particular application should be approved.

Unfortunately, it smacks of possible discrimination because the applicant is usually given five minutes to present his case, which is a very brief time, yet the commissioner, who advises the committee, is not limited in time at all on the reasons why the application is being refused and in fact participates in the discussion.

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We feel this is not really a true appeal procedure, and we feel there should be some provision in this bill requiring a procedure of appeal to be set up whereby a refusal is to be reviewed by some impartial board that would then make its recommendation to the city services committee. It doesn't have to be a large board; it simply should be some kind of business review board that would be able to look at the pros and cons and just make a recommendation to the city services committee about what should apply. If that was done, we feel it would be more equitable.

For example, Mr Bougadis made an application for an ice cream vending permit for a location on Queen's Quay. He was third on the list of applicants, having waited several years to be considered. When the matter came up for a particular location on Queen's Quay, there were two persons ahead of him, neither one of whom had included in their application that they intended to sell ice cream.

But because they were ahead of him, although in one case I think they included in their application that they

intended to sell French fries, and in another one, hot dogs, the city department went to the person who was ahead and said they couldn't give him a permit to sell hot dogs or French fries, but if he'd like to sell ice cream, he could get a permit to sell ice cream. He proceeded to say yes and proceeded to get the permit for the ice cream vending location which in fact had been denied to Mr Bougadis, who was the only applicant in line for an ice cream vending permit in that particular location.

Now, that doesn't sound equitable. Unfortunately, the matter came up before the city services committee and was reviewed by the committee and the position of the commissioner was confirmed. What else would happen? We feel there is not equity here.

Similarly, we feel there should be some procedure to be followed so that a person who has been in business as long as Mr Bougadis has could not have his licence now cancelled and have to go to the bottom of the line again to make a new application. In other words, we feel there should be some grandfather clause in this legislation. We feel it's the only way in which long-standing vendors who have developed this method of earning a living to support themselves and their families can be protected from arbitrary decisions to cancel.

It would seem this legislation is sufficiently bald that it could happen that way without any cause of appeal being given to a person in Mr Bougadis's position to appeal such a decision. There should be some appeal procedure built into this bill, I suggest, requiring that the bylaw have a procedure to review, on an impartial basis, decisions such as that, which can so arbitrarily affect a business.

We also feel there should be some provision that the lists of applicants for vending locations should be kept in a public place and that they should always be current so that anyone can go and look at the list at any time and be able to see where his or her particular application is. There have been instances of persons I have represented who one day found themselves, say, number 15 on the list and who went back a month later and found that they were now 25 on the list, with no explanation of how they happened to drop down the list in that manner.

The lists are not public. The lists are kept by the city department, and heaven only knows what can happen to things under those circumstances. If the lists were public, they would be reviewed by the applicants from time to time, who would see that they were being treated fairly. I guess it's the old story that things must not only appear to be done properly, but they must in fact be done properly.

Those are the concerns of my client. He feels that the bill in its present form does not build in sufficient safeguards for appeals of applications which are refused and for cancellations of permits without cause.

There's also a third procedure which is a little inequitable. At present, if a person wants a particular location, they make an application to the department of public works and the environment for a particular location and pay their fee of \$200, I think. That matter is then reviewed; inspectors go out and look at the location to see if it's a proper location and then they report back to

the department, viz, the commissioner, and that can be refused as not a proper location. Then it can come before the city services committee where, as I've mentioned, the procedure followed is to have the commissioner make his case to the committee, and he's there all the time. If it's refused, the applicant doesn't get any money back.

It's a pretty dangerous procedure, unless you've got a few hundred dollars you want to throw away, to make an application for any particular location, because (1) it can be relatively arbitrarily refused and (2) you don't get your money back.

We feel this bill should have some more equitable features built into it to protect these kinds of situations, and we respectfully make those submissions to the committee.

The Chair: Thank you, Mr Skells. Mr Bougadis, did you want to make a few comments?

Mr Peter Bougadis: Yes, ma'am. I don't know if the same committee was here in this room about three years ago. They said there were too many hot dog carts on the sidewalk, and if you put the signs they removed the zoning, and because of the pedestrians and traffic. That's a poor excuse that always the city has come forward with at meetings.

At that time we asked Councillor Tom Jakobek and Mayor Eggleton what's going to happen with the curb lanes. I'm talking about with the ice cream trucks. We work in the city only 150, 160 days. It's a tradition in Toronto. In 1958 my father started, and I continued his business for all these years. He said: "Mr Bougadis, you don't have to worry about it. If you get the tapes, you're going to find the ice cream trucks are going to be free. Nobody's going to bother your tradition. It's just for 150 or 180 days. You don't have to worry."

After we left the room, we received so many summons, so many tickets and so many problems on the streets. I asked, where's the promise? It went from one situation to another: He said go to the 24th floor, come back to the 15th floor, come back to city services, come back to city council.

We can't afford to pay all the time lawyers. We don't understand the language very well. We are farmers who come from Greece, from Italy, from all these places, to be honest people, to work, to make a living. To go through these procedures, we don't understand the language. We have to have somebody like Mr Skells or somebody else to advise, and we can't afford it.

We have our families. My kids are going to university and so many other people's are going to university. We work in this job. We have to have some legislation, something for us to protect us. We're honest people. If you ask the policemen, we have the cleanest records. We don't cause any trouble; we don't cause anything. I don't see why the city should treat us like that and why the city should want more power to send us home. I don't see why.

The Chair: Thank you. I notice there are some other folks here who may have an interest in this, so I will put the question again. Are there any other people in the audience who have a particular view on this bill or a

proposal to express? You can each take a chair if you like. I will start with this gentleman, if you would like to introduce yourself for the committee's sake.

Mr Andrew Paton: Thank you, Madam Chair. My name is Andrew Paton. I am a solicitor and I'm accompanied by Mr Firsten. Mr Firsten is a supplier of flowers for vendors in the city of Toronto.

In first reading the legislation, we weren't really sure we had a problem with it. I think the more I hear, the more problem I have with it. Mr Johnson perhaps hit the nail on the head, and that is, what are the additional powers you're asking for?

This is special legislation, it's my submission, and the city, I think, has proceeded to amend its bylaw with respect to the two cases Mr Perlin had mentioned, Greenbaum and Sharma. But he says to you, notwithstanding that, and keeping in mind that the vending legislation has been in the city of Toronto since the late 1970s or early 1980s pretty much in its current form—and I should indicate to the committee I have some knowledge of that; I was a member of city council and actually passed that bylaw—and it went on for many years and was successfully run, then the city came up and said, "We need additional powers; we have to have powers to seize." That's a fairly serious matter. This committee said, "Well, that's fine."

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If the city can say to you very clearly, "This only confirms and clarifies; it does not give us any more power," then I have some easiness. I feel a little better because Mr Firsten's been operating on the streets for over 30 years. In the good old days you walked in and paid \$5 and got a permit. They didn't measure and take and do and drive you crazy. But we understand that times change.

It's inappropriate, I think, for various municipalities, various interest groups, to come to Queen's Park and say: "I need special legislation. It's nothing different from what anybody else has, but I want it clear. I just want it clear." I think it's a waste of time and I think it's inappropriate. I would submit to you that I thought I heard Mr Perlin back off the clarification to say, "Well, maybe we are getting some additional powers." If they're not getting additional powers, then they don't need the act.

Believe me, as a lawyer, to try and figure out what's going on in the city of Toronto—and they're here every year. Unlike most municipalities, they're here almost every year for special legislation.

How do you seize? You have to go to the City of Toronto Act, 1990. It only goes to 1993. Well, that's not true, because Pr whatever after Pr4 said we're going to extend it indefinitely. Then I have to find out whether you need a demolition permit or not. They've got special legislation; you can't get a demolition permit without it. It goes on and on, and it's just making government more complicated. For what? "To clarify." Why don't we wait for another 10 or 12 or 15 years and see if indeed we end up in the Supreme Court of Canada and we have a problem. He's saying to you, "We don't have a problem, but"—

I think it's very, very dangerous and wrong of this committee, without some extensive hearings, some real time put into this bill to go through it clause by clause, word for word, to see if we have new powers, because it affects a lot of people. The city of Toronto is famous, and has been for many years, for consulting with the constituents.

When this matter went to council, and I've been dealing for Mr Firsten with the city of Toronto for 10 or 12 years, we didn't get any notice of the matters that are appended, the March 16, 1993, report that went through Sharma and Greenbaum and so on. I would have thought that when they're seeking special legislation of this nature—they have lists of all the people who have permits—why wouldn't they advise people, "What we're going to do is we're going to clarify the legislation to make sure you can have your permit." That's fine, but they didn't do that, and I think that's inappropriate.

I heard a magic word that we get into with vending. If I was before city services, I wouldn't have to spend a lot of time on this, but it was the word "competition," which Mr Perlin mentioned. He started to talk about restaurants, that restaurants will come and want an outdoor café. Reasonable. Mr Silva told you how you go through the process. But then I think I heard him say, "But if that person who runs that restaurant doesn't want it, then they should have the right not to let anybody else have it." So we shouldn't have competition.

Interestingly enough, the city of Toronto doesn't have the power on Queen Street to regulate the number of restaurants. If you're zoned, you can have a restaurant, whether you're next door or 50 or 100 metres away. I don't see that they have that power today, but maybe they're saying they want to control that. "We want to say to the person who has the restaurant, who doesn't want the boulevard café, no one else can have it. Don't worry, we'll protect you."

These are issues that start to creep into clarifying legislation that looks pretty general, but if you're somebody like the previous speaker, like my client who's been doing it for 30 years, 25 years, who does this for a living, it becomes a very, very serious matter.

With respect to Pr61, we didn't get the opportunity or we missed the opportunity to be here when the legislation was passed with respect to removal zones. I think it's appropriate that the city has a system of ticketing people, charging them and going through the court system. If we'd had a removal zone back when Mr Sharma and Mr Greenbaum were charged, they would have taken their flowers and they would have died. That would have been the end of it. But what happened? They actually worked through the court system. A couple of people who just sell on the street went to the Supreme Court of Canada, God bless them, and actually won. I think that this makes a lot more sense than what you're doing.

You've already extended legislation with respect to removal zones on the street allowance, but I don't think you should exacerbate a situation. I don't think you should make the same mistake twice. I think you should really think about it, that there are other processes, particularly with perishable items. How you're going to

store them, flowers or hot dogs or food or those types of things, is beyond me. It's really a very draconian way to deal with people. Charge them and make the fines stick the way the city does on other matters and eventually get injunctions. The city gets an injunction if you don't comply to the orders that are given you under the Building Code Act.

We don't have a particular interest in parks because we don't vend in parks, but I don't think you should make the mistake twice. I think you should say, "Mr Perlin, you give me your undertaking, the undertaking of the city of Toronto, that you are not asking for one bit of new power or we won't pass this bill, and if you are asking for new powers," and I think they are, "then you clearly outline them to us in the material that you give us," material which unfortunately we haven't seen.

I presume there's some material before the members of the committee with numbers and so on which really would have been very interesting for us to have had and perhaps would have allowed us to focus a little bit more in our presentation. I also thought I heard someone talk about an amendment which, again, I haven't seen. If there's an amendment before the committee, I can't speak to it because I haven't had the privilege of looking at it.

But this Legislature and this committee should not be in the business of reconfirming legislation for people. If they want to pass new legislation, then clearly understand what those new powers are and why the city of Toronto should have them, why Metro shouldn't have them, why Pickering shouldn't have them, why Mississauga shouldn't have them. You may know, and I think it is in the material before you, that Metro has asked for certain powers. I think you should look at vending in a global way and I think the government should bring forward some changes to the Municipal Act so everybody in all municipalities has the same rights and should be treated the same. Special legislation, private legislation, is not the way to go on this issue.

The Chair: Thank you, Mr Paton. I'm going to turn to the gentleman here, if you'd like to introduce yourself and who you're representing, please.

Mr Sam Caragianakos: My name is Sam Caragianakos and I'm from the Grenadier Restaurant in High Park. We also operate in the western beaches in the west end of Toronto.

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I'm here because of the seizure law where they want to seize the vehicles. I took over the western beaches just over a year ago and we've had nothing but problems since day one with illegal vendors, sometimes up to 10, 15 vendors a day, operating around my concession booth. I went through the proper channels to get the rights to sell down there. We went through over 12 months of back and forth with different tenders and what we're going to give to the city of Toronto to enhance the parks, make it more enjoyable for the people who are going to be in the parks and what kind of food they're going to eat while they're there. They have not only the opportunity to eat healthy food, but also hot dogs and the rest of the food. We carry both ends of food.

We pay approximately \$2,000 a month in property taxes while we're there. We have a short season because it's a park, and we pay approximately \$2,000 to \$3,000, depending on how long our season goes. Sometimes it'll go for a five-month season, but most of the time we're looking at a four-month season on the western beaches. In High Park we have a little longer season, because you get your spring and your fall, which are beautiful in the park. In the park, we're paying about \$3,500 a month, just talking property taxes. We also pay about \$4,000 to \$5,000 a month in business taxes, our share to GST, PST and all the rest of the things. We also pay, in High Park, over \$70,000 a season in rent.

We have illegal vendors coming when they feel like it. I'm there every day even when it's not a good day. Even when I have to hire the 10 students to work for me that day and we don't even make enough money to pay our wages that day, I have to be there, I have to open up and I have to operate my concession. These vendors come on Sundays, which is one of our high days, or during the air show. They show up to come and reap the profits that I'm entitled to to try to make up for the rest of the season. Let's say we had a rainy weekend or a season like last season, not the season that's just past, when we had no business at all.

I went into this season in High Park owing \$70,000 in rent that I did not have. Luckily, we had a half-decent summer and I don't owe \$70,000 any more. I paid last year's rent, which I owed and I paid almost half of this year's rent. I'm still behind. But then I have illegal vendors coming up and stealing my business. I went through the proper processes to get the rights to this park.

The police have helped us on many occasions. They will come and they will ticket when they have the time. They're busy too; they're under budget cuts and everything, just as well as other people in the city. But they have no authority; they cannot seize these vehicles. They give them a \$107 ticket, I think it is, or a \$103 ticket. A \$103 ticket is a business expense to these people. They pay \$100 or \$200, as Mr Bougadis says, for their year for their licence. If I had the opportunity to pay only \$200 a year for my licence in there, I would take a \$107 ticket or a \$103 ticket every day that I operate. There has to be some way that we can discourage illegal vendors from being in the park; I'm talking financially now.

Now let's get into the western beaches, which we have videotapes of. There are five or six vendors hanging around in one corner of the park. They're arguing and fighting with each other on who should be there: "Why don't you go home?"—obscurities and so on. Our children come to the park. The first thing they see is these vendors fighting and arguing with each other. A mother comes up to the cart with a child and says, "I'd like a hot dog." Joe over on the other side says, "I'll give you a hot dog over here," and they start arguing and fighting among each other. It's right on the videotape that was brought here; you can see. Is that what we want our city parks to become?

The city tells me what colour my umbrella is. They tell me what kind of hot dogs I can use: all-beef, vegetarian and everything like that. I'm fine with that, because I

don't need the city to tell me anyway; I will give the best product because I'm there and I want to service people. I want people to come back to my hot dog stand or to my concession stand or to my restaurant. That's part of doing business. There are a lot of fly-by-nighters out there—I'm not saying that any of these people who were here today are—who will save a hot dog from the day before and sell it. You're going to get into problems in these areas where you don't want those types of problems to arise.

On several occasions this year, when I was down on the western beaches, I have shown vendors the proper documents that I have that I'm the only one to sell down there. I had my life threatened. Since then I've never approached a vendor, because the police came down and they said to me: "You know something? That's not your matter. You shouldn't go up to the vendor and show him anything and ask him to leave. You should call us and have us"—well, sometimes the police just don't have the time to come down.

So I'm pleading with you to at least take a look. I'm talking for the seizure of any illegal vendor who's in a city park, especially when someone has a concession stand or a restaurant and pays his dues and has gone through the proper channels in that park. The parks that are empty, that don't have concessions, I don't know; I really don't have a feeling on that one. But on this one, where I pay the amount of money that I pay to have the right to sell in that park—I not only give uniform and good food, but you don't know what's going to happen when you have an illegal vendor in there.

The Chair: I'm going to turn to the gentleman at the far end then. Please introduce yourself and tell the committee who you're representing.

Mr George Foulidis: Thank you, Madam Chairman. Honourable members, my name is George Foulidis. I am the president of TUGGS Inc. TUGGS Inc is under contract with the city of Toronto pursuant to a tender call in 1986. Since 1986, TUGGS Inc has invested over \$2 million in the eastern beaches, which is what Mr Perlin referred to earlier.

One of the ideas the city had initially was to enhance all the concession stands and provide better service and better food. For that reason, we entered into this agreement. We invested our money. As I said, we had the exclusive right to vend in these areas. Since the beginning, I've experienced nothing but problems. Of course, I've brought them by myself, through my solicitor, to the attention of city staff and the city solicitor himself.

It's been very difficult, but although I have entertained many times or considered even litigating the city because we're under agreement with each other, we have never taken that step. One of the reasons is because the city has tried to work very hard at controlling the illegal vending that's happening in the park areas where I'm under contract.

Today before your committee you've heard many people tell you that some people have been in business for 30 years, others have been in business even longer, and therefore you should give consideration for the length of time. What I'm here to tell you is that vending is okay. If someone is licensed to vend in a particular area

and they honour that and they stay in that area and do what they are supposed to do, there's nothing wrong with operating a business. I'm in business myself. That's what the whole spirit of the free enterprise system is all about. However, where vendors enter illegally into areas on boulevards or in park areas and specifically come during those days that are busy, as he mentioned earlier, in the summertime, what you have is chaos.

On a good weekend, where we expect our revenues to be high, we have not one, not five; I can count for you 1,000 and more, and I've given many letters and pictures to the city over time. These people come and invade the park in such ways that I could describe to you for three hours. Some of them go on the grass. Ice-cream trucks come in. They go right on grass areas. They park beside our concession stands. Of course, the only recourse we have is to yell and scream and try to get the police down there to perhaps get them removed.

The police have certain powers. They do not have the power to remove physically or seize carts. The only powers they have are to ticket people. Ticketing is not a solution, any more than it is for seatbelts. The police ticket; people still don't wear them.

The amount of the fine certainly doesn't discourage anyone from practising business in the parks. It's a cost of doing business, definitely. Even if a vendor receives one or five or 20 tickets, the fact is, once they reach court, half of these tickets are not honoured anyway.

1120

I pay heavy tax dollars to the provincial government through provincial sales tax, obviously to GST, land and business taxes over \$60,000 and \$80,000. The city's return on my investment through depreciation and natural rent is over \$250,000 a year.

I fully support the city's position in having the right to remove these carts. I have had staff who have done nothing but work full-time during the summer months in trying to monitor and solve our problem with respect to illegal vending. I would describe for you one typical example of what happens when I try to get assistance.

I phone the police. The police may come two hours later. Obviously, this is not priority on their list. It's an issue, they know it's an illegal act, but they have other things to do as well. The vendor may have been there for a good number of hours by the time we discover them, so therefore half a day may have passed by the time the police arrive, if they arrive at all.

When they arrive, they may ticket them but most often they ask them to leave. The vendor moves on further down along the parklands and parks somewhere else and continues to do vending. These are the revenues I'm looking for to run my business. The vendor comes back the next weekend.

I've come to know some of these vendors at a personal level. I've had fists in my face, I've been pushed around physically, I have had my staff intimidated. Recently, in 1993, waiting for one call for the police to come, a vendor did such a thing. They moved from one location to the other and we had to track them down.

By the time the police arrived, I had approached the

vendor and informed him, "It's time that you leave, the police are here." He started to threaten me. They kicked the side of my vehicle, which was parked adjacent to theirs, as they were unloading, or I should say loading their cart back into their van, and at that point they became extremely abusive, verbally and physically, to myself and to the police. They were arrested and this December I'm going to court under subpoena as a witness because my life was threatened too.

I'm saying to you it's time you put a stop to illegal vending. Certainly don't stop those who are there to do business, but illegal vending should be stopped and the city, specifically the city, should have the right to govern and monitor their lands as they deem fit. If they do not, this problem will not stop. I hate to say this to you, but at one point in time you may regret not giving them these rights. Thank you for listening.

The Chair: Thank you. I was going to turn to Mr Hayes but he had to step out for a moment. At this point I will turn to Mr Hansen, if you have any particular questions that you wanted to raise with the deputants.

Mr Hansen: I've got a lot of concerns with the bill here; I guess maybe the new powers that are given here. This is why I sort of waited to ask the questions.

You're talking mainly on Bill Pr61, the ones in parks. It looks like you were talking, I gathered, in favour of the bill here. Is that correct? You're not objecting to Pr61, but are you objecting to Bill Pr48?

Mr Caragianakos: No.

Mr Hansen: I understood that any more objectors—and you came forward as objectors, but you're in support.

The Chair: They're interested parties.

Mr Hansen: Okay. I was waiting for this objection and this is why I've been confused, because I thought you were actually objecting to the bill, these gentlemen here. Actually, I'd like to hear from the parliamentary assistant if there are any objections from the ministries. He just walked back in. I'll hold my questions.

The Chair: There is an Anne Valliere and a Gary Fox. Did you have any other comments that you wanted to make on this as well? You didn't step forward when I—

Ms Anne Valliere: Yes, I would.

The Chair: You would actually like to make some comments? Okay. If I could ask these gentlemen to allow these two folks to come forward and then maybe more comments and questions will ensue from the members. If you would then introduce yourselves for the purposes of Hansard and begin your presentation.

Ms Valliere: My name is Anne Valliere. I work with the parks and urban forestry division in the parks and recreation department. I just have a few matters that I would add to the discussion in support of the bill for removal or seizure of vending carts in our parks in the city of Toronto.

In the videotape we had actual evidence of various sites, in particular the western beaches area, in support of Mr Caragianakos, who spoke about illegal vendors in that area, where you would see that vending carts were

obstructing certain entrances to parks, including parking spots for disabled.

Also we had a recent incident, in the summer of 1993, where there was an emergency call where ambulance attendants had difficulty entering the pool complex at the Sunnyside pavilion as a result of illegal vendors in the area.

Vendors have an opportunity to register with the city of Toronto so that when we issue a tender for vending at a particular park location, they can submit their bid at that time. So we do have a process in place with our various vending spots in our parks.

The contracts vary from anywhere from two years to five years to 10 years, depending on the amount of financial input that the vendor would be required to put towards the project. For example, for the western beaches area we have a 10-year contract as the result of a request for a café to be developed inside the pavilion, along with vending outside the building.

In terms of requesting approval for this seizure bylaw, it's in a way to deter the illegal vending activities. The videotape shows numerous tickets being issued to one vendor—that's just one example in the western beaches area—who looked upon it as being part of the normal business of the day. The Metropolitan Toronto Police issued I think it was up to six to nine tickets. It just does not deter the illegal vendors from continuing their operation.

Many a time vendors will operate on the street allowance. Upon being asked to move by park staff or by public works staff or Metro police, they will move their vending cart and move into an adjacent park and continue vending. So there's this back-and-forth kind of motion from the park on to the street allowance. There is a commitment from the parks department and the public works department to monitor this to the best that we can, but without the seizure of the goods from the parks we're having great difficulty in doing so.

That basically concludes my comments with regard to this. I think you might find it quite helpful to view the videotape where it actually shows some of the problems associated with illegal vending. It quite illustrates what Mr Foulidis and Mr Caragianakos explained. Thank you very much.

The Chair: Does your colleague with you wish to say anything?

Mr Gary Fox: My name is Gary Fox. I'm with the city of Toronto department of parks and recreation. I was involved in the making of the videotape. On numerous occasions, particularly in the western beaches, I have been threatened while making the videotape.

We're involved with such things as Ms Valliere has stated where particular parking spots are being blocked off. Access to parking areas is being severely limited, especially in the western beaches, coming from Lake Shore Boulevard into a parking area where the Martin Goodman Trail crosses the entrance to the parking areas and fast access and clear access are very important.

Some of the other difficulties that we found were litter being left around the locations, grease spots being left in

the parking lot, which of course attract all kinds of beasts, situations such as foliage being damaged, the park areas themselves being damaged, and again the public being subject to unsanitary conditions from definitely illegal people selling goods that really are not fit for human consumption.

I don't have any more. Thank you.

The Chair: Thank you. Did you wish to say something, sir? Go ahead.

1130

Mr Henry Kelly: I'm Henry Kelly. I'm with the department of public works and the environment. I'd just like to clarify some matters.

Businesses were consulted. The way the street vending system in the city of Toronto developed was that we had a committee which consisted of council members and members of the business community.

The system has developed to where it's at the point now that the business community is in favour of seizure and the licensed vendors are in favour of seizure. The only ones who are not in favour of seizure would appear to be the illegal vendors themselves. First of all, the illegal vendor is warned; then the cart is seized and removed. It costs a minimum of \$500 to get your cart back.

When we were giving out tickets before seizure came into force, our inspectors were laughed at. They would give a person they knew by name a ticket. That person would pull out a roll of tickets, maybe 100 or 200 tickets, that he had already been given, add the one given to it and just continue vending.

Like the representative of the parks, our inspectors' lives have been threatened. They have had anonymous phone calls at home saying: "We know where you live now. We know who the members of your family are. Leave us alone." Our inspectors have been warned by the police to keep out of certain areas because not only are the illegal vendors selling hot dogs; they're selling drugs. There are guns and knives involved. We are in the position now where our inspectors go around in pairs for their own safety.

One of the main problem areas we had with regard to vendors in particular was around the SkyDome. Before we had seizure, you'd go down to the SkyDome and there would be a wall of vendors lined up along the sidewalk so that people crossing the road could not get through to where they were going. Other places it happened were around the new CBC building and the Metro Hall.

When we get target areas where we have problems, we do a study. We find the maximum number of vending locations that we can in that area and we get people licensed to operate there. It's funny: When the vendors become licensed, they tend to be self-regulating, because if you're paying the city money to sell hot dogs at a spot, you don't want someone setting up beside you selling cheaper than you can because that person is not paying the city any money at all.

Now, with respect to ice cream vendors, they are kind of given favoured status in the city, because if you have an ice cream truck, you don't have to get a licence from

the city to operate. You can go into a residential area, you can stop for 10 minutes at one location, 30 minutes in a block, and you don't have to pay the city anything to do this. In a commercial or an industrial zone, you have the same formula except that you can stop for one hour at one location and three hours in a block. City council did this because ice cream vendors have a tradition in the city of always being there. Yes, if you want a permanent spot where you can stay 24 hours a day, then you have to have a licence. I think that's all I have say. Thank you for listening.

Mr O'Neil: One of the questions that was raised was as to how long the licences were given for, whether three, five or—you mentioned 10 years in some cases. What sort of criteria does the committee use to say whether that licence is going to be given again or taken away? I think there was some concern in one of the letters saying that they could have been there five or 10 years and somebody comes along and takes that licence away from them. How is that handled?

Mr Kelly: Up until this year, the bylaw allowed you to renew your licence every year for a maximum of five years. Then that location would be put out to tender. However, city council realized that a person was building up a business; he had customers who always came to him. So that was removed completely. Right now, a vendor can renew his licence in perpetuity, provided he's operating in conformance with the bylaw.

Mr O'Neil: In other words, the person who is at that location could go on continuously as long as he's doing what he's supposed to do.

Mr Kelly: Correct.

Mr O'Neil: In other words, that letter is not correct in what it's stating.

Mr Kelly: No.

Mr David Johnson: The seizure you're talking about would pertain to Bill 61, I guess, for the parks.

Mr Kelly: No, I'm talking about within the public highway.

Mr David Johnson: All right, this is one thing I wanted to get clarified. Let me ask you: Today, do you feel you have the right of seizure?

Mr Kelly: Yes.

Mr Perlin: We already have that.

Mr David Johnson: You have that right.

Mr Perlin: That was a bill that was already passed by the Legislature.

Mr David Johnson: Have you in fact seized various properties?

The Chair: Could you actually indicate your answer, because the nod will not be picked up by Hansard.

Mr Kelly: Sorry. Yes, we have.

Mr David Johnson: But that's just on the boulevard.

Mr Kelly: Sidewalks and boulevards, yes.

Mr David Johnson: And you're unclear in terms of parks, so Bill 61 would give you the authority to seize in parks as well.

Mr Kelly: That's correct.

The Chair: Mr Hansen, did you have any additional comments?

Mr Hansen: I'm a little bit clearer now on the issue.

Mrs Ellen MacKinnon (Lambton): You speak about people who wish to do this tendering. I thought I understood tendering. I just have to ask the question, how do you tender to have a spot on a street with a cart that's going to sell whatever? Do you tender to say how much rent you'll pay or what?

Mr Kelly: No, we do not have a tendering system. The way it works on city streets is that the vendor will come in and apply for a spot. If it meets all our requirements, we notify the adjacent property owner and business operators. If they have no objections, we have the authority to grant the permit. If there are any objections, then it's heard by the city services committee and city council. City council can either say, "Yes, you can have this spot," or "No, you do not have the spot because of the objections we received." Then that person gets the permit and they can renew it for ever.

Mrs MacKinnon: Why did you use the word "tender?"

Mr Kelly: Up until this year there was a tendering system. In other words, you could only renew the permit for five years, then it was put out to tender and the highest bidder, I assume, would get the spot.

Mr O'Neil: But that's been done away with.

Mr Kelly: That has been done away with.

The Chair: Mr Hayes, would you like to make some comments on behalf of the Ministry of Municipal Affairs?

Ms Valliere: Madam Chair, may I just add to that question by Mrs MacKinnon on the tendering process, just to clarify something?

The Chair: Okay, Ms Valliere, if you'd like to continue, then we really do have to get on. I think we've had a lot of discussion on this point.

Ms Valliere: Just to clarify, the tendering I spoke about was for the city parks. We do have a tendering program for our concession operations, which generally are buildings. We've just introduced vending carts as part of that in certain locations. But we do have a tendering system we continue to use for the award of specific sites.

Mr Perlin: In the parks.

Mrs MacKinnon: Thank you very much, but I'm a little more confused than ever now.

Mr Hayes: Just to kind of clear the air on the one issue, I know there was a comment made about people not getting the information. In all fairness, if the clerk's office or ministry staff are not notified that people are going to be here to object, we don't know who those people are, so that's probably one of the reasons why individuals did not get some of this information.

However, the Ministry of Municipal Affairs and also other ministries have not indicated any objections to these bills. But really I think it would be proper at the same time if the city were to maybe give a breakdown, because of some of the questions that were asked, on what is in its bylaw now and how does it really dovetail with this

particular private bill. I think a question was asked on extra authority and things like that and I know some of the members were concerned. If you could do that, I think it would help the committee.

1140

The Chair: Mr Perlin, could you make a comment, please.

Mr Perlin: Let me give the undertaking that Mr Paton indicated. There is nothing being sought in this bill that is not already in the system that exists at the city of Toronto in bylaw format. With the City of Ottawa Act, 1992, combined with the Supreme Court decisions, it could put that system into jeopardy. Those of us who have experienced great difficulties in terms of going through a court system—Sharma and Greenbaum, for example, took from 1987 to 1993. In the meantime, tickets weren't being processed, hearings weren't being heard as we awaited the court process to move through. So we are not asking for anything other than what is already in existence in the city bylaw system.

In terms of notice and procedures, in terms of due process, that's already provided for in the Municipal Act. Councils have to act in good faith, they have to act with due notice and natural justice principles, that the Legislature has already ensured in terms of the Municipal Act. So when councils act, they already have to act in a fashion that respects those principles, or people have rights to go to court and quash any decision that a council has taken if it hasn't done so in accordance with the principles of natural justice and in good faith. Those protections are already in existence.

We are not asking for anything that is not already in the bylaw system of the city, a system which in fact does work to protect people like Mr Bougadis or indeed the flower vendors in terms of ensuring people get certain locations and live to certain regulations. I want to make sure the committee understands that.

We wouldn't be here if it wasn't for the combination of Sharma and Greenbaum and an act, the City of Ottawa Act, that you passed last year, which sets out the express powers and which then throws into question precisely how much power we do have and whether the existing system, which works well in the city, can continue. That's why we're here.

Mr David Johnson: I'll just ask a question on that. There may be three levels of power that we may be talking about. One is the kind of power that you thought you had in the first instance. The second level may be the kind of power and authority that you've exerted visibly that the vendors see. Those could be two different levels. The third is the level of power that the courts have told you or that you've interpreted from court decisions that you've had.

So when you say that there's nothing new here, which level are you comparing with: what you thought you had in the first instance, what you have visibly exercised that the vendors would see, or vis-à-vis what the courts have now told you that you have?

Mr Perlin: I'm not sure I understand the three levels of power that you're speaking to. What we are indicating

is that we don't intend to change the system that we already have. What's in front of you would allow us to continue the system we already have.

Mr David Johnson: So the vendors would not see anything different.

Mr Perlin: In terms of what we are already doing in terms of vending, boulevard cafés, street displays, sidewalk sales, they won't see anything different.

Mr David Johnson: They wouldn't see anything in terms of—for example, they've questioned in one of the letters here your ability to tell them what sort of display they must have, that there is no extra authority in that regard.

Mr Perlin: We already do that as part of the system.

Mr David Johnson: And as part of the system you already tell them what sort of food they can sell; you have some authority on that and you've exercised that authority.

Mr Perlin: We believe that we did. I've been very frank with you before by saying it is open to some question.

Mr David Johnson: That's why I'm saying they're different levels.

Mr Perlin: What we're asking is to be able to confirm the system that we have, and that shouldn't be open to question. Where there is a concern, this entire system is dealt with by municipal council, and a very open system, as you know, at the city of Toronto in terms of people being able to change the system, come to the municipal council and ask for changes, and those changes can be made in the bylaws. All this gives is bylaw power to do what we're doing.

Mr David Johnson: Mr Skells questioned, would they get a fair or impartial hearing. Are the system that you have set up today and the system that you envisage under this bill similar? His concern was that they would not get a fair, impartial hearing, they would lose their rights without cause and they would go before a city services committee where the main person who would advise is the person who's already revoked their licence. Is the system any different in that regard?

Mr Perlin: I don't accept Mr Skells's description of the system. Sometimes people aren't happy with the decisions the city services committee or council makes after they make their presentations, but there already is a system where they come and make their pitch to the city services committee; sometimes they are successful and sometimes they aren't.

In terms of whether there should be a change in whether the commissioner of public works should have a right to speak any longer than anyone else, that can be dealt with by coming to city council and saying, "Put it in the procedure pile." There's already a way that this can be dealt with.

Mr David Johnson: But this bill doesn't change that.

Mr Perlin: That doesn't change that, exactly. An independent committee could be set up by city council as an independent situation. I know what Councillor Silva said in terms of limiting what city staff can say, or time

limits. I thought that was a pretty good idea and I might very well take it up when he gets back to the city council.

Mr O'Neil: That was one of my concerns too, that although the bill doesn't deal with that, maybe after hearing the comments of some of the people who have given testimony here, or the comments of the committee, the city of Toronto should be looking at a few of these suggestions of not limiting some person to just five minutes or three minutes or whatever.

Mr Perlin: Or some independent committee in between that might have more time or something to look at it.

Mr O'Neil: Yes.

Mr Hansen: On the list that you have, where you're moving up to be qualified for a particular area, there was a comment made that your name could actually go down on the list. So I'd just like to hear, if it is public, that you can walk in and say: "Everybody knows where I am. I'm number two on the list. I shouldn't be number eight." Is there any comment on that?

Mr Perlin: I'll let Henry speak on how it actually operates. We are governed, however, by the Municipal Freedom of Information and Protection of Privacy Act and that information does fall under the category of private information once we provide it, so that becomes a difficulty.

Mr Kelly: City council's policy is first come, first served. In other words, if you applied first, then you would be considered first for a particular location or when we study an area for that block, so there is no hanky-panky going on.

Mr Hansen: So there's a date that actually goes down of when you put it in.

Mr Kelly: Yes, the date the application is received in our department. The list is made. In the case referred to by Mr Bougadis, he was third on the list. There were only two feasible locations. Two people had applied before him. City council decided that one of those should be for a French fries truck and one for an ice cream truck. In accordance with council's policy of first come, first served, the first two people on the list got the spots.

Mr Bougadis: Madam Chair—

The Chair: You'll have to actually come forward to the mike and one of the folks here is going to have to move.

Mr Hansen: You'll have to sit down close to the mike, sir.

The Chair: The other thing is that we are not in the dispute resolution business here, so that if you have a concern with how this is all going to be resolved, I'm sorry, you are going to have to do that within the confines of the city of Toronto. We will hear a few brief remarks, but beyond that you are going to have to deal within the city of Toronto to get your particular concern addressed. Mr Bougadis, a few brief remarks, thank you.

Mr Bougadis: Madam Chair, thank you very much. The city council, or Henry Kelly, said they had decided on one ice cream truck and one French fries truck. The

two people ahead of me had French fries trucks. Any time we write an application to apply for ice cream, for French fries, for hot dogs or anything, he can't change it. That's the bylaw with the city; city council has made it. What happens is—Mr Henry Kelly; I don't know who is doing it—he twists the application. For the French fries guy, he goes out and says to him: "Listen, we don't want two ice creams or two French fries. There is going to be one and one. If you wanted to get Peter Bougadis's spot, go buy ice cream. We'll wait for you. I'll wait three months for you to get an ice cream truck." He's never been with the ice cream business. "I'll wait three months for you to get an ice cream truck, and I'll give you the spot, not Mr Peter Bougadis." That's fair?

I'm going with whatever city council says: "One ice cream truck, one French fries truck. Whoever is on the list with the first ice cream truck and French fries truck." My application is in ahead of the other application. That's why I say it's not fair. The system at city hall is not fair. We want some fairness.

The Chair: At this point I'm going to interrupt and say, Mr Perlin, that I think you recognize there is an issue here and, Mr Silva, you have some concerns here and I hope you will take some time before leaving today to consult with Mr Bougadis and Mr Skells to try to find some resolution to this. At this point I think we have had ample discussion on this, so I am going to ask the members if they are ready to vote.

Mrs MacKinnon: What would the committee feel if we caucus for a few minutes?

The Chair: You can move that.

Mrs MacKinnon: I would move that, yes.

The Chair: Is there a supporter for that?

Mr Derek Fletcher (Guelph): She can ask for five minutes, no matter what.

The Chair: Okay, we could have a five-minute recess then.

The committee recessed from 1151 to 1156.

The Chair: Ladies and gentlemen, I'd like to begin again. If members would take their places so that I can put the question: Are members ready to vote? Agreed.

Mr David Johnson: Is it possible to just say a couple of words before we do that?

Interjection: No.

Mr David Johnson: I know we're running out of time here, but—

The Chair: We've started the voting procedure.

Mr David Johnson: I thought we were just in questions up to this time.

The Chair: The majority has in fact agreed that we should have a vote.

Mr David Johnson: So I'm overruled.

The Chair: Basically, yes.

Mr David Johnson: Democracy in action.

The Chair: I try to do it nicely, Dave, but what can I say?

This is relating to Bill Pr48, An Act respecting the City of Toronto.

Shall sections 1 through 4 carry? Carried.

Shall section 5 carry?

Mr Hansen: Madam Chair, I have some amendments here.

Subsection 5(1): I move that subsection 5(1) of the bill be amended by striking out "or a municipality official named in the bylaw" in the second and third lines.

The Chair: Can I make a point? The copy I have says "municipal official," just to be clear for the purposes of Hansard.

Mr Hansen: Okay. What did I say?

The Chair: "Municipality."

Mr Hansen: "Municipal official." Okay.

The Chair: If you'd just like to repeat that phrase then?

Mr Hansen: I move that subsection 5(1) of the bill be amended by striking out "or a municipality"—

The Chair: No.

Mr Hansen: —"a municipal official named in the bylaw" in the second and third lines. Boy, when I get it right, I get it right every time.

The Chair: Thank you, Mr Hansen. All those in favour of the motion? Anyone against? The motion is carried.

Mr Hansen: I have another motion, subsection 5(2.1): I move that section 5 of the bill be amended by adding the following subsection:

"No hearing

"(2.1) Despite subsection (2), a municipal official named in the bylaw may, after giving notice to the permit holder, suspend or revoke the permit without a hearing for failure to,

"(a) provide proof of insurance coverage if that coverage is required as a condition under clause 4(a);

"(b) enter into agreement that is required as a condition under clause 4(a); or

"(c) pay a fee required under clause 4(d)."

The Chair: A minor correction: Under (b), it should be "any."

Mr Hansen: "Any agreement." Okay? In (b) it should be "enter into any agreement."

The Chair: All those in favour of that particular motion? All are in favour, so it is carried.

Mr Hansen: I have one more amendment here, subsection 5(3): I move that subsection 5(3) of the bill be amended by striking out "under subsection (1)" in the first and second lines.

The Chair: All those in favour of the amendment? None are opposed, so that motion carries.

Just to be clear, that clause has four sections.

Shall section 5, as amended, carry? Any opposed? None, so that section is carried.

Shall sections 6 through 7 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you, ladies and gentlemen, for your cooperation. We go to Bill Pr61, An Act respecting the City of Toronto.

Shall sections 1 through 5 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Any comments, Mr Johnson, at this point?

Mr David Johnson: It's a little late now.

The Chair: I thought I'd at least give you the opportunity.

We will meet next week, ladies and gentlemen. We have an additional bill, I believe, from the city of Toronto relating to parking that we will be dealing with.

We'll see you at 10 o'clock next week. Thank you very much. The meeting is adjourned.

The committee adjourned at 1202.

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STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

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- Eddy, Ron (Brant-Haldimand L)
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- *Hayes, Pat (Essex-Kent ND)
- *Johnson, David (Don Mills PC)
- *Jordan, Leo (Lanark-Renfrew PC)
- *Mills, Gordon (Durham East/-Est ND)
- *O'Neil, Hugh P. (Quinte L)
- *Perruzza, Anthony (Downsview ND)
- Ruprecht, Tony (Parkdale L)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:
Brown, Michael A. (Algoma-Manitoulin L) for Mr Eddy

Clerk / Greffière: Grannum, Tonia

Staff / Personnel: Mifsud, Lucinda, legislative counsel

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Troisième session, 35^e législature

Official Report of Debates (Hansard)

Wednesday 24 November 1993

Journal des débats (Hansard)

Mercredi 24 novembre 1993

Standing committee on
regulations and private bills

Comité permanent des
règlements et des projets
de loi privés



Chair: Christel Haeck
Clerk: Tonia Grannum

Présidente : Christel Haeck
Greffière : Tonia Grannum



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STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 24 November 1993

The committee met at 1006 in committee room 1.

REGION 2, I.W.A. BUILDING
SOCIETY ACT, 1993

Consideration of Bill Pr65, An Act to revive Region 2, I.W.A. Building Society.

The Chair (Ms Christel Haeck): Ladies and gentlemen, I'd like to call the meeting of the standing committee on regulations and private bills to order. Our first order of business is Bill Pr65, An Act to revive Region 2, I.W.A. Building Society. Mr Bisson, if you would introduce your applicant, please, you have a few brief opening remarks at your disposal.

Mr Pat Hayes (Essex-Kent): This is on the brief.

The Chair: Thank you, Mr Hayes. The applicant can make his remarks.

Mr Gilles Bisson (Cochrane South): We have with us today David Pouliot, who's a solicitor for I.W.A. out of Thunder Bay. They have an act in order to revive Region 2 of I.W.A. I'll let Mr Pouliot make comments on that.

Mr David Pouliot: Good morning. The private bill that we're proposing revives Region 2, I.W.A. benefit society. The corporation was dissolved by the Ministry of Consumer and Commercial Relations on January 27, 1987. The Corporations Act permits a revival of a corporation within five years of the date of dissolution, and that wasn't done. The dissolution was for the reason that the appropriate information notices hadn't been filed. The reason for that is simple inadvertence.

The corporation has to be revived because there is a significant asset that is registered in the name of the corporation. That's a building that the union owns on Weston Road here in Toronto. In order to deal with that building they require the benefit society to be revived. That's the reason for the application before this committee. It's the only way the benefit society can be revived, since we're out of the five-year limitation period for reviving the corporation under the Corporations Act.

The Chair: Very good. I will turn to Mr Hayes at this point. Oh, excuse me; I'm ahead of myself.

Mr Gordon Mills (Durham East): This has nothing to do with the new IWA, does it?

The Chair: No. Would one of you like to translate the acronym just so that it's on the record?

Mr Bisson: It's the International Woodworkers of America.

The Chair: I thought it might be.

Now I will ask if there are any other interested parties in the audience who would like to come forward. Seeing no rushing forward, I will ask Mr Hayes, as the parliamentary assistant for Municipal Affairs, if he has any comments to make.

Mr Hayes: The Ministry of Municipal Affairs does not have any objections to this bill.

The Chair: Are the members ready to ask some questions?

Mr Ron Hansen (Lincoln): I'm ready to say that we should go ahead and revive this bill. I don't think there's any question. I think if we get into a long discussion on it, it would be a waste of the committee's time, unless any other committee members have any questions.

Mr David Johnson (Don Mills): Speaking on behalf of all of the opposition—

The Chair: I know you can do that singlehandedly.

Mr David Johnson: —I offer my support.

The Chair: Very good, Mr Johnson.

Mr Bisson: And speaking on behalf of all the proponents, we offer our support. It's a tripartite agreement.

The Chair: Thank you, Mr Bisson. As a result of that, I will pose the question. Are the members ready to vote? Agreed.

Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

The deed is done. Thank you very much for coming.

CHILDREN'S ONCOLOGY CARE OF
ONTARIO INC. ACT, 1993

Consideration of Bill Pr57, An Act respecting Children's Oncology Care of Ontario Inc.

The Chair: I'd like to call forward the sponsor, Ms Poole, for Bill Pr57, An Act respecting Children's Oncology Care of Ontario Inc., and the applicants. Ms Poole, would you like to introduce first and then make some opening remarks with regard to the application.

Ms Dianne Poole (Eglinton): Thank you, Madam Chair and members of the committee. First of all, I would like to introduce, to my immediate right, Deborah Paul-Brent. Deborah is president of Children's Oncology Care of Ontario Inc. To Deborah's immediate right is David Fleet, a former colleague from the Legislature with whom I'm sure you're familiar. David is the solicitor for Children's Oncology Care of Ontario.

Children's Oncology Care of Ontario Inc was established in 1979 as a non-profit organization that would be responsible for the operation of Ronald McDonald House. I know that all members of the committee are familiar with the very fine work of Ronald McDonald House and how it has made it possible for the parents and families of children with cancer to actually stay with their children when they're undergoing this gruelling experience. Their work has become renowned not only in Ontario and Canada but throughout the world.

There was the first Ronald McDonald House established in Toronto in 1981, and now a second Ronald McDonald House has been established. At the time of the first Ronald McDonald House, Susan Fish introduced a

bill exempting Ronald McDonald House, as a charity, from the taxation. This is what we're doing today, to exempt the second Ronald McDonald House.

As far as I'm aware, there are no objections. This has been approved by both the city of Toronto and the municipality of Metropolitan Toronto. I believe Deborah would like to make a few comments about Children's Oncology Care of Ontario and Ronald McDonald House.

Ms Deborah Paul-Brent: Thank you, Madam Chair and members of the committee. Toronto's Ronald McDonald House has operated as part of Toronto's health care community since 1981, providing accommodation and support to thousands of out-of-town families. These children are receiving treatment for cancer in Toronto hospitals. Toronto's Ronald McDonald House provides services to families residing outside the Toronto area, and at the same time other Ronald McDonald houses worldwide care for Ontario families should they travel to other centres for medical procedures. Toronto's Ronald McDonald House provides services to families from all over the world, but the majority of families who stay at a Ronald house come from northern and southwestern Ontario. The charge for accommodation is \$10 a night and is often waived.

About five years ago, the Hospital for Sick Children identified a need to provide the same accommodation and support to families of children receiving treatment for all other life-threatening illnesses. This need arose from the ability of the hospital to provide new procedures, such as organ transplants.

Children's Oncology Care of Ontario, COCO, which owns and operates Toronto's Ronald McDonald House, responded to this need by obtaining the Gerrard Street property to construct a 22-bedroom facility which will accommodate an additional 500 families a year, including 100 cancer families who are currently being turned away.

The expansion to 26 Gerrard Street East will also enable COCO to create a drop-in centre for the use of families from the greater Toronto area, offering a valuable network of support from our volunteers and the other families they can meet who are facing similar challenges.

COCO has been fortunate to receive a grant of \$20,000 towards the establishment of this drop-in centre from the city of Toronto health care fund. The Hospital for Sick Children, Mount Sinai Hospital and Princess Margaret Hospital all recognize Ronald McDonald House as a partner in the Toronto health care community.

Because we facilitate its delivery of services, Ronald McDonald House is able to accommodate outpatients, enabling doctors to release their patients sooner, knowing they will receive ongoing support close to the hospital upon their release, thus freeing up beds sooner and shortening waiting lists. This benefit flows down to all Ontario residents seeking the services these hospitals provide.

Toronto's Ronald McDonald House has always received grass-roots support from merchants and organizations, such as schools, church groups, service clubs and sports associations all across Ontario, which hold dances, tournaments, bake sales and bazaars to assist with the

operating costs of the house. The capital campaign has also attracted the support of many corporations such as Wood Gundy, Coca-Cola Canada, Nestlé, Sun Life, Prudential, Colgate-Palmolive, Rogers Cable, Bell Canada and all the major Canadian banks.

McDonald's Restaurants of Canada is our largest donor but does not generally contribute to operating costs. Its contribution is limited to the capital costs of each new Ronald McDonald House constructed.

In conclusion, I wish to convey that during its 12 years of operation Toronto's Ronald McDonald House has gained the respect of the major treatment centres in Toronto, which have come to recognize and depend on it as an integral part of the Toronto health care community. The past generous and largely unsolicited support we have received from individuals and organizations throughout Ontario can only reflect the sentiment that Ronald McDonald House is regarded as a credit to the province, providing a unique and much-needed service to families facing the challenge of a lifetime.

I wish to take this opportunity to publicly thank the city of Toronto and Metro for their past recognition and generous support of the Toronto house since its inception. I wish to thank the committee for this opportunity to tell you about Ronald McDonald House.

The Chair: Thank you, Ms Paul. Mr Fleet, did you have some comments to make at this time?

Mr David Fleet: Thank you very much, Madam Chairman. I will try to be brief. I'll deal with the more technical aspects. The bill that is before you is a replication of the previous bill that was passed by the Legislature. It has met with approval after considerable discussion among representatives of the city and of the ministry and legislative counsel. We're obliged to each of those groups and those representatives for their assistance. I know that Mr Dennis Perlin, who is counsel for the city of Toronto, is present and I want to also thank him for his assistance.

There is an amendment, which perhaps now is being circulated, that will deal with making the power of the city to pass the bylaw retroactive to the 1st of the current year. I understand Mr Johnson has agreed to put that amendment, and we thank him for that.

This bill is designed to permit the municipality to pass a bylaw for an exemption. As such, it complies with the usual criteria that the ministry has. I've spoken briefly with Mr Hayes at the start of today's proceeding and I understand they're in agreement so that the tax exemption is actually implemented by bylaw, and this bill gives authority to the city to pass such a bylaw. As the compendium notes, Metro Toronto and the city have both dealt with the issue in council and approved of it. We've also, of course, given notice to the school board.

I would be pleased, if you have any technical questions, to do my best to respond to them. Again, thank you for the opportunity to address you.

Mrs Ellen MacKinnon (Lambton): Maybe you're going to put this under the category of a technical question. I just wondered if you could please explain subsection 3(5) to me, "If land is substituted for the land

described in an agreement made under subsection (1)...." It looks to me like you could divest yourself of the land that you're looking at now and get some substituted land.

Mr Fleet: Yes.

1020

Mrs MacKinnon: What is the purpose of that particular paragraph?

Mr Fleet: The purpose is, I suppose, to avoid unnecessarily coming back to the Legislature in the unlikely event that there was, for some reason, a shift of the location. That might happen. The only thing I can think of that's even likely at all—it's not very likely at that—would be, for instance, because there was a municipal need to take the land, you do a swap and you've got another piece of land.

There are no plans to have anything other than Ronald McDonald House number two operate where it is, as it is, literally indefinitely. But that was the reason for that. It permits the parties to deal with the concept that's approved under the bill without coming back to the Legislature and incurring the time and expense. It's exactly the same as the provisions contained in the earlier bill and, I believe, in fact previously in other private bills before this body where you've got exemptions.

Mrs MacKinnon: Did I understand you correctly, that this would only be effected by the municipality; it would not be effected by the fact that Ronald McDonald House might wish to substitute some of the land?

Mr Fleet: You'd have to have agreement. I know there are no plans to do anything of that sort in the short, medium or long term. Of course, lawyers draw these things up in order to try to catch every conceivable eventuality. But if for some reason there is a need to change—say, there is a desire to expropriate that location on the part of the city and Ronald McDonald House doesn't want to lose its ability to provide a service to needy parents; I say "needy" in the sense of the health and emotional needs as well as the financial ones—then this permits that to take place in the ordinary course without coming back to the Legislature and seeking an amendment, because the concept would be identical. There would be no difference in concept.

Mrs MacKinnon: I think I understand what it is you're saying. This is just a portion of some lands that surround where you wish to put the new Ronald McDonald House, correct, not the entire land?

Mr Fleet: There is a building with land. It's all of that plot. It's not like there's excess land somewhere; there's no spare land. There's no development potential, if I can put it that way, that I'm aware of. In fact, there are other provisions in this that, for instance—again, this isn't really conceivable from the point of view of Ronald McDonald House—in order to provide a measure of assurance and protection from the city's point of view, if for some reason it was sold, then there's a provision that causes a retroactive 10-year immediate obligation to pay taxes. It's a heck of a bang if somebody went to do it. In fact, that even kicks in if they lease the property or a portion of the property. That's an effective way of making sure that the organization does exactly as it says

it's going to do. Nobody really doubts that. It's put in as a matter of pro forma, as I understand it, as a routine that the city does so that effectively there's no other function that will ever take place on this property.

Mrs MacKinnon: I'm afraid it's a little too technical for me.

Mr Fleet: That's part of the reason I'm here. It is difficult in terms of the legal ramifications.

The Chair: Thank you, both to Mr Fleet and Mrs MacKinnon. I don't see any other questions at this time, but I will ask if there are any other interested parties in the audience who may wish to come forward at this time. Seeing none, I will ask the parliamentary assistant for any comments and concerns.

Mr Hayes: The applicant meets the criteria and the city of Toronto and Metro Toronto support this application. Therefore, we have no objections to it.

The Chair: I would like to ask if there are any further questions.

Mr David Johnson: Just to indicate that I think this is a wonderful example of governments and the private sector working together, where you have the local council—the city of Toronto—Metropolitan Toronto council, the province of Ontario and the corporate sector working together for a very worthy objective. It must be a big assistance in terms of having the children close to their parents. I'm sure it assists quite greatly in the treatment they get.

I'm pleased to support this application and I'm also pleased, Madam Chairman, with your guidance, to place the amendment at the appropriate time.

The Chair: We have a comment yet from Mr Eddy, and when we get through the reading of the sections, we'll stop at the appropriate point for you to make the amendment.

Mr Ron Eddy (Brant-Haldimand): Just briefly, I want to add my support. Although I apologize for not being here for the total presentation, I'm well aware of the operation of McDonald House and am complimentary to and do support the bill.

The Chair: I'm quite sure we're all well aware of the good work they've been doing, and it's a nice briefing package as well. Thank you very much for that.

Seeing no further questions, I will ask if the members are ready to vote. Agreed.

Shall section 1 carry? Carried.

Mr David Johnson: I move that section 2 of the bill be amended by adding the following subsection:

"Retroactive bylaw

"(3) The bylaw may be retroactive to January 1, 1993."

The Chair: All those in favour of the motion to amend? Agreed.

All those in favour of section 2, as amended? Agreed.

Shall sections 3 through 6 carry? Carried.

Shall the schedule carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill as amended carry? Carried.

Shall I report the bill to the House? Agreed.

Mr David Johnson: I believe there's a motion that would be appropriate with regard to the Children's Oncology Care of Ontario on waiving the printing fees, because it is a charitable organization. I'm not sure of the precise wording, but I know you'll bear with me. The Children's Oncology Care of Ontario has just been given exemption of its taxes. Being a charitable organization we're all very supportive of, I'm sure we would be prepared to waive the printing costs for its application. I would so move.

The Chair: Are all the members in favour of waiving the printing costs for the Ronald McDonald House, Pr57? Agreed.

The work is done, Ms Poole. A quick comment from you?

Ms Poole: On behalf of the Children's Oncology Care of Ontario Inc, I would just like to very much thank the committee for its support and let you know that Ronald McDonald House II is opening its doors next week, so your support is particularly timely.

The Chair: Very good. I know they will continue to do all that good work. Thank you very much.

CITY OF TORONTO ACT, 1993

Consideration of Bill Pr45, An Act respecting the City of Toronto.

The Chair: Good morning, Ms Akande. I would like to ask you, acting as the sponsor for Bill Pr45, An Act respecting the City of Toronto, if you would introduce the deputants, the applicants, and then make any remarks that are necessary to get this rolling.

Ms Zanana L. Akande (St Andrew-St Patrick): Thank you very much, Madam Chair. I have with me this morning city councillor Betty Disero and city solicitor Dennis Perlin. They are here this morning to present the bill to this committee.

I'm pleased to be able to introduce to the standing committee this morning the proposed City of Toronto Act, Bill Pr45, designed to allow the council for the city of Toronto to pass bylaws authorizing the Parking Authority of Toronto to enter into agreements with any person for the management and operation of parking facilities on lands or in structures located within or outside the city of Toronto on such terms and conditions as may be agreed upon by the person and the authority. I will ask that they continue in its explanation.

1030

The Chair: Very good. Ms Disero, if you'd like to, on behalf of the city, open up conversation or a dialogue, whatever we have, this is obviously something we've had some passing knowledge of.

Ms Betty Disero: Great. Good morning, Madam Chair and members of the committee. Thank you so much for hearing this bill this morning. Unfortunately Mayor Rowlands is unable to be here. She's probably stuck in a room with no windows, with her sleeves rolled up, working on how to cut budgets and cut spending for the city of Toronto—

Mr Mills: Good; sounds familiar.

Ms Disero: —in order to try to keep the taxes this year down to a zero increase. It's a very difficult task for her, so she's unable to be here this morning and sends her regrets.

I'm here this morning very strongly supportive of this bill and to urge you to support the bill for a couple of reasons. The Toronto parking authority has been one of the—maybe the only—profitable authorities or companies that the city has that actually makes money. Last year I guess they made a profit of over \$4 million. This year they anticipate coming in over \$5 million. They are a good revenue generator for the city of Toronto.

On occasion, because they do operate very affordable lots that are probably the best maintained in the city of Toronto, they are asked by various people who own properties in the city of Toronto to operate lots for them on their behalf. Quite often, what happens at that point is that the same property owners, and sometimes even others, come to the Toronto parking authority and ask it to oversee lots in other municipalities. At this point the Toronto parking authority is unable to do that but would like the opportunity to be able to operate on a private owner's behalf in other municipalities, with the consent of course of the local municipality. So we're here today to ask for that consent. North York I believe already has a similar situation in place, so we're asking this morning for you to allow us to do that as well.

Dennis Perlin is here and is happy to speak to you and answer questions, and Ian Maher from the Toronto parking authority is also here if you have any questions for him.

The Chair: Very good. Any initial comments that you'd wish to make at this point, Mr Perlin?

Mr Dennis Perlin: Councillor Disero I believe said all that had to be said in terms of the bill unless there are questions.

Mr Hansen: I would just say that we went through this with North York and we didn't have a problem. We supported North York on this and I don't have a problem supporting this bill.

Mr David Johnson: I guess it was the North York bill I was thinking of earlier. I don't really have a problem with this either, but it's just that when you mentioned that other municipalities may ask you to operate within their boundaries, it twiggged my memory that in fact you do operate one in the borough of East York. I wonder how that happened.

Ms Disero: The situation there is that what we're allowed to do by law is that if Metro owns the lot, we can operate on behalf of Metro. So Metro probably is the owner of the property in that parking lot you're talking about. But this is to allow the Toronto parking authority to operate lots for private owners.

Mr David Johnson: I don't think so. This isn't a trust company.

Mr Ian Maher: What happened on that site—it's at Bayview Avenue and Millwood Road.

Mr David Johnson: That's right.

Mr Maher: Because of the lack of ability in the legislation, at that time the parking authority had to arrange for Metro to purchase the property from Canada Trust. We entered into a lease agreement with them, a 25-year prepaid lease agreement. So Metro in fact owns the property, but the parking authority has paid for it and operates the lot.

Mr Eddy: I think this is a much better way to do it, to have the legislation, and being in favour of more parking, I'm prepared to support the bill.

Mr Anthony Perruzza (Downsview): Just a quick question: Do you have any deals already in the works outside your city limits that you're pursuing, or is it just that you're looking for the right in case something happens to come along at some point down the road? If you do have any sort of prospective deals, where?

Mr Perlin: We don't have any at the moment. We've had requests in the past, as Councillor Disero said. At the moment there are none on the table, but we've had requests in the past, and once the city of North York made the breakthrough, we've now decided to come in and seek similar authority so that we too can do that which North York does.

Mr Perruzza: Competition is wonderful.

Mr Perlin: Exactly.

The Chair: I have the obligation to ask if there are any other interested parties who wish to come forward to speak on this particular bill. Seeing none, I will turn to the parliamentary assistant and ask him if there are any comments from the Ministry of Municipal Affairs.

Mr Hayes: The Ministry of Municipal Affairs has no objections to this application.

The Chair: May I ask the members at this point if they are ready to vote? Agreed.

Regarding Bill Pr45, shall sections 1 through 4 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Very good. This is a very fast passage in comparison to our previous encounter. We'll hope they're all like this.

Mr Perlin: No vendors with us this week.

Mr Mills: I think he should get a per diem, Madam Chair.

The Chair: I told him we're going to reserve a seat for him.

YORK-DURHAM HERITAGE RAILWAY ASSOCIATION ACT, 1993

Consideration of Bill Pr64, An Act respecting York-Durham Heritage Railway Association.

The Chair: Mr O'Connor, you and your group have been most patient. Would you introduce the applicants for Bill Pr64, An Act respecting York-Durham Heritage Railway Association.

Mr Larry O'Connor (Durham-York): It's indeed a pleasure to be at this point today before the committee

bringing forward this bill. It's something that the communities of Stouffville and Uxbridge are very excited about and it's something that's been long awaited. We'll, I'm sure, hear a little bit more about that. If you'll allow me to introduce the solicitor for the York-Durham Heritage Railway Association, Eric Button, perhaps he can introduce a couple of the association members here for this very historic day for our community.

The Chair: Mr Button, if you'd continue.

Mr Eric Button: Thank you, Mr O'Connor, Madam Chair, members of the committee. I'm not only the counsel; I'm also the treasurer of the association. On my immediate right is Rob Paré, the president of the association. On his right is Ken Harding, the secretary of the association.

This is indeed a big step for us. Perhaps I can give you just a brief background of the association. We've been in existence approximately nine years. We are incorporated under section 3 of the Business Corporations Act, which means we are a non-share, non-profit association. Our main goal is to develop a heritage railway, not only a tourist train but a historic setting, in both Uxbridge and Stouffville to attract tourists to the area.

We at present have equipment. We have a passenger car and caboose. Canadian National Railways has just donated a second passenger car to us. We expect, through one of our members from Canadian Pacific, to receive a donation of a diesel locomotive within the next two months and, through one of our other contacts, we also are right in the middle of negotiations and it's quite likely that we will receive a donation of a second diesel locomotive, hopefully in the near future.

1040

The main thing we've been waiting for over the last two years is that Canadian National abandoned the rail line that runs between Stouffville and Uxbridge. The Ontario government, through GO Transit, has been negotiating with CN. It's taken a couple of years, but the transfer of the land has taken place. The actual deed was registered on September 30, so we are now proceeding.

We have been dealing with GO Transit over the past six months. There isn't a signed agreement yet, but everything appears to be in order. Other than the usual concerns of liability insurance and proper operating equipment, there do not appear to be any concerns. We certainly appear to be on track, if you'll pardon the pun on that.

As I said, we've been in existence for about nine years, and through our various fund-raising activities we have quite a number, approximately 150 people, who not only are assisting us at this point but also have volunteered to help us in our endeavours, everyone from railway engineers to mechanics and contractors. It's been quite a wonderful experience for us to see the number of people who volunteer their support and assistance to us.

Perhaps I could turn briefly to the reason for this bill. I'll apologize to counsel. One of the interesting quirks of the law of Ontario is that when we incorporated under the Business Corporations Act, or the Ontario corporations act, that act has right in it that the company cannot

incorporate in order to construct or work a railway. It leaves us, shall we say, out in the cold.

Over the past few years, the accepted practice has become that what we do is incorporate under the Business Corporations Act, or the Ontario corporations act, but to have on our articles of incorporation that our objects are to hold railway equipment or develop railway equipment but not to operate a railway. We then have to go through this next step, have a private member's bill, which basically is that we're incorporated by a special act and, notwithstanding those certain sections of the Ontario corporations act, we can operate a railway. That's really the first major step for us to go through.

From there the regulating body, the Ontario Municipal Board, takes over and regulates the actual operations of the railway.

The Chair: I will ask if there are any interested parties. Seeing really no one else in the room, other than some ministry staff, I think it would be fair to say that there are no objections from other members of the public with regard to this bill.

I will now turn to the parliamentary assistant and ask him to provide us any information regarding the ministries.

Mr Hayes: I understand that MTO, for example, doesn't have any objections, and this ministry doesn't have any objections. Also, due to the fact that Mr O'Connor seemed to be so enthusiastic about this application, I don't think we'll object to it at all. We'll support the application.

The Chair: I would ask if there are any questions among the members of the committee at this point.

Mr Hansen: I'm going to support this bill because there have been a lot of short rails in Ontario that are being saved by groups like this. I think we'll lose all the heritage of steam and the old diesel here in Ontario, so I'll support this bill.

The Chair: I believe there is one amendment which has been circulated. Mr Mills will handle that.

Mr Mills: Paragraph 1—

The Chair: No, no. It just has to go through—

Mr Mills: Oh, you're not ready yet.

The Chair: No, we have a couple of pieces of business to take care of first. Did you have a question, Mr Johnson?

Mr David Johnson: No, no more questions. Let's hope you meet your objectives. Good luck.

The Chair: Very good. Are the members ready to vote?

Shall sections 1 through 10 carry? Carried.

Section 11, Mr Mills?

Mr Mills: I have an amendment. I move that paragraph 1 of section 11 be struck out and the following substituted:

"1. An accident or incident that affects the safe operation of the railway or the safety of the railway's property."

That amendment, I believe, is self-explanatory.

The Chair: All those in favour of the amendment that's been put forward? Agreed.

All those in favour of section 11, as amended? Agreed.

Shall sections 12 through 14 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report the bill to the House? Agreed.

Gentlemen, your work is done at this point. There is probably lots more work that you have to do.

Mr Button: Madam Chair, if I may, we're a fully volunteer organization and we rely upon the support, encouragement and help from people from the community. First of all, I thank Susan Klein and Tonia Grannum for their assistance through this; they've been most helpful and most friendly. Particularly, I want to thank Larry O'Connor. His friendly face, support, help and encouragement throughout the last two years have been wonderful. Larry, thank you very much.

Interjections.

Mr Button: He has friends in the railway.

The Chair: We need friends everywhere.

Mr O'Connor: Just to add, not to the praise but to the people who have worked on this railway, it's really had a lot of hard work and a lot of hours put into it. In fact, their volunteer network has cleaned up the existing railway bed that they're going to operate on. They had on many occasions wonderful events within the community. You can see a miniature railroad, which my son just loves, and for a loonie you can have a ride.

They dismantled this little railroad and they carted it all around the area. It can be found at Bruce's Mill conservation area one time and for a loonie—this is how they raise their funds—or it can be found at the Steam Show in Uxbridge or a county fair. It's just incredible. Really, there was an awful lot of work done by this association and it certainly is something that is driven by the community. Both councils, Uxbridge and Stouffville, fully support this, and hopefully it will bring an economic benefit to all the community. It certainly is a pleasure to be here.

The Chair: As someone who has had the opportunity to, on occasion, ride on some reconstructed lines and antique rail lines, where my husband, being a rail enthusiast, can indulge those interests, I have to say I wish you a lot of success in your endeavour. For those of us who do get a chance to see other parts of Ontario, if we get to your neck of the woods when it's running, I'm quite sure my husband and I will be very happy to travel your rails.

Mr Button: We're only an hour away from here.

The Chair: We live at the other end of the peninsula. We don't get out of the peninsula as often as we would like. Thank you very much for coming before us and having a pleasant time talking about railways. Thank you to the members and thank you, Mr Perruzza. We'll move adjournment.

Interjections.

Mr David Johnson: It was a point that occurred to

me as we were discussing it, but it's been brought to my attention again that this is a charitable organization, and normally in this situation we do waive the printing costs because we're very supportive of the objective. I'd be happy to move that, but I think Mr Mills has been making this motion, if he would like to make that motion.

The Chair: Mr Mills, would you like to formally move that, then?

Mr Mills: Yes, I formally move the intent to waive charges.

The Chair: Any further comments or questions?

Mr Paul R. Johnson (Prince Edward-Lennox-South Hastings): Having had a number of heritage rail organizations and similar organizations come forward, I would like to know if in the past we have printed their bills for free.

The Chair: The information that I can give you is that where it is a charitable organization and it makes application to do so, basically in a similar manner to this, it has been done.

Mr Paul Johnson: Because I would not want to think that we have in the past excluded the opportunity for some non-profit organizations.

The Chair: It has even been done retroactively.

Mr Paul Johnson: Very good.

Mr Mills: Madam Chair, on another issue—

The Chair: We haven't carried that or voted on that, though.

Mr Mills: Oh, I'm sorry. I beg your pardon. I'm always in a hurry.

The Chair: Mr Perruzza?

Mr Perruzza: I'm in favour.

The Chair: All right. All those in favour of that particular motion to waive the printing costs? It is unanimously carried.

Mr Button: Thank you very much.

The Chair: Mr Mills has one other point of business.

Mr Mills: On another point, Madam Chair, I received this first report and it says, "Please bring to the committee." I'm just wondering, if I was told to bring it to the committee, it would lead me to believe there was going to be some discussion on it, or is there not?

The Chair: That's for next week.

Mr Mills: Oh, I'm a week ahead of myself.

The Chair: You're ahead of the game. Mr Perruzza, you have raised your hand?

Mr Perruzza: I move adjournment.

The Chair: Thank you, Mr Perruzza. The committee is adjourned.

The committee adjourned at 1050.

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***Mills, Gordon** (Durham East/-Est ND)

O'Neil, Hugh P. (Quinte L)

***Perruzza, Anthony** (Downsview ND)

Ruprecht, Tony (Parkdale L)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Paul R. Johnson (Prince Edward-Lennox-South Hastings) for Mr Fletcher

Clerk / Greffière: Grannum, Tonia

Staff / Personnel: Hopkins, Laura, legislative counsel

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Wednesday 1 December 1993

Journal des débats (Hansard)

Mercredi 1 décembre 1993

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regulations and private bills**

**Comité permanent des
règlements et des projets
de loi privés**

Review of Regulations Reports,
1989 and 1990-92

Étude des rapports sur les règlements
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STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 1 December 1993

The committee met at 1009 in committee room 1.

REVIEW OF REGULATIONS REPORTS,
1989 AND 1990-92

The Chair (Ms Christel Haeck): I'd like to call the meeting of the standing committee on regulations and private bills to order. Our agenda this morning is somewhat different than our usual turn of events; that is, we will be reviewing a series of reports relating to regulations.

I'd like to welcome a series of staff people here who are going to advise us of the other half of our legislative duties, the one we don't tend to see all that often. Our first presenter this morning is Laura Hopkins instead of Lucinda Mifsud. Lucinda is the registrar of regulations, but she is ill, and Laura will very ably provide us some background in her stead. So, Ms Hopkins—Laura—please begin.

Ms Laura Hopkins: Cindy gave you a copy of a fairly lengthy article by Don Revell about the rule-making process. What I thought I would do would be to hit some of the high points of the regulation-making process and the job of the registrar of regulations.

As you know, a large proportion of the law that governs all of us is in the form of regulations. Regulations are a type of law, each of which is made under the authority of a particular statute, sometimes called the enabling act.

Regulations are most often made by the Lieutenant Governor in Council. On occasion they're made by a minister, and very rarely they're made by someone other than a minister or the Lieutenant Governor in Council.

As you know, statutes are relatively easy to find. A member of the public can go to the public library and track them down without too much difficulty. Reading them can be another thing, but accessibility is the first task.

The situation historically wasn't the same with regulations. Regulations were much more difficult for a member of the public or a member of the bar to find. When you found them, you couldn't always be confident that what you were looking at was up to date and still in force. So in 1944, the Regulations Act was passed to address public accessibility and certainty about the contents of regulations.

The Regulations Act creates the administrative machinery necessary to make sure that regulations are accessible and that their content is certain. The registrar of regulations is appointed under the Regulations Act by order in council. The registrar's primary duties under the Regulations Act are two. One is record keeping and the other is publication. What I want to do is walk quickly through the administrative machinery of the Regulations Act to give you a picture of how it works.

When, for example, the Lieutenant Governor in Council makes a regulation, it doesn't become law until

it is filed with the registrar of regulations in the regulations office. The regulation becomes valid when it's filed.

Once it's filed, the registrar of regulations is required to publish the regulation in the Ontario Gazette within a month after it's filed. A regulation isn't usually enforceable until after it appears in the Ontario Gazette. The exception is, it's enforceable against someone who's had actual notice of the contents of the regulation. Of course, the law assumes that we're all reading the Ontario Gazette every month so that we are fully up to speed.

Mr Hugh O'Neil (Quinte): Which we do.

Mr Derek Fletcher (Guelph): It's at the top of my list.

Ms Hopkins: The registrar can't refuse to file a regulation because the registrar believes that it may not be authorized by an act. That's not a judgement call that can be made by the registrar. If the regulation appears to have been correctly made, if the signatures of the appropriate people appear to be on the paperwork, then the regulation can be filed, and regulations are presumed to be valid until they're found to be not valid by a court.

Mr O'Neil: Give us an example of a regulation that might be made before it appears in the Gazette. Are they still posted somewhere before they're in the Gazette?

The Chair: Just a second, Hugh, if I may. Let us follow through on the normal rules of committee. Could you address me so I can recognize you for the purposes of Hansard. We are being recorded. So, Mr O'Neil, you can continue with your questioning.

Mr O'Neil: In other words, when a regulation is made, it goes through the regulations committee of government. Then, after approval, do you still post it before it goes to the Gazette, so that people will know about it even before it goes in the Gazette?

Ms Hopkins: Sometimes a regulator will want people who are regulated to know about a regulation right away, so he may advertise it in the newspaper. Sometimes you'll see Highway Traffic Act regulations advertised in the newspaper. Sometimes, if they affect a small population, the regulator will mail them to the small population or post them in a government office so that they'll come to the attention of someone who is affected before they appear in the Ontario Gazette.

Mr O'Neil: Sometimes there are cases where it doesn't become public as quickly as maybe it should, I feel.

Ms Hopkins: I think that's not something I'm able to help you with.

Mr O'Neil: Okay, great.

The Chair: If I may, Mr O'Neil, I think maybe you could refer your questions to some of the other staff we're going to have before us, because they may be able to give you some idea on that issue. Could you continue, Ms Hopkins.

Ms Hopkins: The registrar has one additional duty established under a regulation made under the Regulations Act, and that's a duty to advise about the preparation of regulations. This advice is most often given to government when government is preparing regulations, before they're made, and the advice of the registrar to the government about these kinds of regulations is confidential legal advice provided by the registrar.

That sums up in a nutshell the task of the registrar of regulations and the regulation-making process under the Regulations Act. I'm happy to answer any questions you might have.

Mr David Johnson (Don Mills): I may be asking the wrong person, but can you tell us how many regulations in total we have at the present time?

Ms Hopkins: Every 10 years there's a consolidation of regulations in force, and there are slightly over 1,000 regulations in the consolidated issue of regulations. In the past two years, each year there have been slightly less than 800 regulations passed. Most of those will have been amending regulations that were in the consolidation.

Mr David Johnson: That's a bit of a surprise. I'm looking at the numbers in a particular report, obviously not the most current report, but in 1988 there were 769 regulations; 725 the year before etc. But most of those are not new regulations, then. Most of those are amending existing ones.

Ms Hopkins: That's right.

Mr David Johnson: So in actual fact there are just about 1,000 regulations as separate entities.

Ms Hopkins: Roughly. Somewhere between 1,000 and 1,100.

Mr David Johnson: Would the amendments go into those 1,000 to 1,100? If you were looking up a regulation, would you have to look up the original regulation and then four or five or half a dozen different amendments to make sure you've covered all aspects of your interest, or could you just go to one source, one piece of paper, and find not only the original regulation but all the amendments consolidated together?

Ms Hopkins: The safest way to make sure you're looking at the correct text of the regulation, and what a careful lawyer would do, would be to look at the regulation in the consolidation and then to look at each amending regulation that's been passed. However, ministries arrange for the publication of frequently used regulations in consolidated form, and they're available from the government bookstore. Publishers will also often publish frequently used regulations in consolidated form.

Mr David Johnson: I recall that one of these documents that's before us today, the Planning Act, is one act that receives quite a number of regulations and amendments and that sort of thing. If one were to have an interest in the Planning Act, how many regulations and amendments? Would you know that off the top of your head? How many amendments and regulations would be associated with the Planning Act?

Ms Hopkins: I'm not sure. I know it's one of the most frequently amended areas of regulation.

Mr David Johnson: It must be maybe up into 1,000?

Ms Hopkins: I'd be guessing.

Mr David Johnson: Is there any movement afoot to consolidate all the amendments within the existing 1,100 regulations so that you wouldn't have to (a) look at the basic regulation and then (b) look through all the amendments that may be associated with it to just make sure your case had been covered? Or is that impossible?

Ms Hopkins: No, I don't think it's impossible at all. I'm not sure whether the government might be considering taking advantage of electronic ways of publishing consolidated versions of the regulations, to be helpful that way.

Mr David Johnson: In total, would you know how many amendments—well, we know how many basic regulations there are: 1,000 to 1,100. If we add up all the amendments associated with them, any idea what that number would be? I guess we'd had the number here for the last 10 years or so. It looks like about 800 a year.

Ms Hopkins: Yes. The consolidation that was passed effective 1990 got rid of most of the regulations that existed before then. The purpose of the consolidation is to in effect re-enact the regulations so that you have a base to work from.

1020

Mr David Johnson: So as of 1990 we are looking at somewhere in the vicinity of 1,100 regulations.

Ms Hopkins: Yes.

Mr David Johnson: And no amendments at that time?

Ms Hopkins: No.

Mr David Johnson: No amendments whatsoever?

Ms Hopkins: No. The amendments occur against that consolidated base, so the amendments would have been made in 1991, 1992 and 1993.

Mr David Johnson: So as we sit here today then, on any topic that is involved with a regulation, one would have to weed through roughly 1,100 regulations and the amendments from 1990 to the present time.

Ms Hopkins: If you wanted to master the entire body of regulations in Ontario, yes.

Mr David Johnson: But you wouldn't be concerned with any amendment to a regulation that occurred before 1990.

Ms Hopkins: By and large, no. The annual statute volume publishes a table of regulations each year that accumulates the amendments in the year covered by the statute volume.

Mr David Johnson: Is it common or uncommon to sunset regulations or the amendments to regulations?

Ms Hopkins: In my experience, it's not done very often. Some regulations in their nature are time-limited, or there will be a rule that, on its face, says it applies for 1993, for example, so that at the end of 1993 the regulation is defunct.

Mr David Johnson: This may not be a fair question, but there's nobody else with the experience here, I'm sure, that you have. Off the top of your head, would it be

less than 50% that would have a particular time frame associated with them?

Ms Hopkins: I think that's fair to say, yes.

Mr David Johnson: Do you have any comments in that regard? From a technical point of view, is there any drawback to putting a sunset on a regulation or on an amendment to a regulation?

Ms Hopkins: From a technical logistic point of view?

Mr David Johnson: Yes.

Ms Hopkins: No, it's not a problem.

Mr David Johnson: I'm asking that question because we've been dealing with some of the business community. Their biggest beef is all the paperwork they have to go through and all the regulations they have to weed through and that sort of thing. One of the cries has been to sunset all regulations, or all amendments, I guess, to regulations, and I wondered if this would impose any sort of problem from a technical point of view.

Ms Hopkins: I don't think that from the point of view of maintaining the indexes it would present a problem. Probably the staff from the legislative research service will be able to help you with that as well.

Mr O'Neil: I don't know whether maybe you want to comment, whether you're the person to comment on it, or maybe somebody from other staff, but just for the clarification of some of the members who are newer than others, I guess one of the concerns that has always been expressed is that there's a fear among members that sometimes a certain bill does not always contain all the things members think it should and that governments—I say governments of all parties—try to cover them under regulations. Some people would rather see it covered by the bill than certain types of regulations. I don't know whether you'd like to comment on that or whether somebody else on staff would like to touch on it.

The Chair: Can you answer that, please, Laura?

Ms Hopkins: I think probably you'll get more helpful advice on that point from the other presenters this morning.

Mr O'Neil: Possibly they could make a note of that and maybe comment on it when they appear before the committee.

The Chair: Thank you to the questioners. I think they were good points to raise. Mr Johnson managed to raise something on sunset that I was thinking about, so thank you for bringing that forward.

At this point, I would invite Mr Fenson and Ms Herbert to join Ms Hopkins at the front table here and introduce themselves for the purposes of Hansard. Mr Kaye, who is sitting at my left, will also be making a presentation. For the information of members, he has prepared a document. The subject is the mandate of the standing committee on regulations and private bills. The other highlighted title is "Origins." If I can turn it over to you, Mr Kaye, perhaps you'd like to highlight the salient points.

Mr Philip Kaye: I thought I'd highlight a few of the key points in my memo, which provides a brief description of the history and mandate of this committee.

The Legislature first set up a regulations committee in 1969 through an amendment to the Regulations Act. This amendment added what's now known as section 12 of the Regulations Act. This section, in a book entitled *Delegated Legislation in Canada*, by Denys Holland and John McGowan, has been described as the most significant modification to the Regulations Act since 1944, when the Regulations Act was first passed.

In the year prior to the passage of this amendment, 1968, the McRuer commission, which was named after the recently retired Chief Justice of the High Court of Justice of Ontario, had recommended the creation of a regulations committee, and by way of explanation one of its comments was, "It is a primary function of the Legislature to make the laws, and it is responsible for all laws it makes or authorizes to be made."

This book, *Delegated Legislation in Canada*, says that McRuer's report was the "major historical impetus towards parliamentary control" over regulations in Ontario. As noted at the top of page 2 of the memorandum, the McRuer commission believed that a regulations committee should serve three purposes, the first of which was that it should result in more care being given to the form and content of regulations.

When it comes to the terms of reference of a regulations committee, where are they found? There are really two sources. There is the Regulations Act, the section 12 which I mentioned, and also the standing orders. Section 12 says that every regulation stands permanently referred to the standing committee on regulations, and it also says that the committee "shall examine the regulations with particular reference to the scope and method of the exercise of delegated legislative power but without reference to the merits of the policy or objectives to be effected by the regulations or enabling statutes." As a result of this provision, the merits of regulations are outside this committee's mandate.

Just with regard to this issue of merits, in April 1973, about three and a half years after the committee was first established, the standing regulations committee, according to the Journals of the House, submitted a one-sentence report which read, "Your committee recommends to the Legislature that in view of the committee's limited statutory powers, that regulations be referred to the committee from time to time for review and examination of their merits."

Ten years later, in 1983, the standing committee on regulations and other statutory instruments made the following comment on this one-sentence report that this committee should deal with the merits of regulations: "Why such a report was thought to be necessary having regard to section 12 of the Regulations Act, what its purpose was and what, if anything, was done about it, is unknown to the present committee. Our surmise is that nothing more was done and that the matter died, along with the committee, at the end of the session."

But this issue of whether or not this committee should deal with merits surfaced again in 1988. At that time, the regulations committee had its current name, the standing committee on regulations and private bills. In the second report, 1988, that committee said that it believed that

committees of the Legislature should be empowered to examine the merits of regulations. However, it did not believe that it was the role of the regulations committee to review policy, that the regulations committee did not have the necessary expertise. As well, it was felt that a merits jurisdiction would probably compromise the non-partisanship of the committee.

The committee, in its report, had then referred to the submission of a professor from the University of Toronto, Hudson Janisch, who in reference to a merits mandate had said, "I believe that it would sidetrack the committee from its important work, would call for a degree of institutional competence not to be found in the committee and would inevitably bring the committee into conflict with responsible ministers and cabinet itself."

1030

Apart from the Regulations Act, the committee's terms of reference are found in the standing orders. The standing orders list nine guidelines for the committee to consider when reviewing regulations. Those guidelines are repeated on page 3 and they are all highly legalistic. In accordance with what I've said about the merit side of things, they don't deal with the policy of regulations.

Of the nine guidelines, the three which committee reports have raised the most frequently would be the second one, that regulations be in strict accord with the statute conferring of power; the third guideline, that regulations should be expressed in precise and unambiguous language; and the fourth guideline, that regulations should not have retrospective effect unless clearly authorized by statute.

Apart from these nine guidelines, the committee, in practice, has adopted a 10th guideline, that regulations should be in conformity with the Charter of Rights. In 1988, in the report I just mentioned, the committee formally recommended that the standing orders be amended to include the 10th guideline, of compliance with the charter.

The standing orders also say that before the committee can draw the attention of the House to a particular regulation, it must first give the ministry or agency concerned an opportunity to explain the regulation; in other words, to indicate whether or not the ministry or agency agrees that one of the guidelines in the standing orders has been violated.

How are these regulations actually reviewed by the committee? Initially an examination is conducted by counsel to determine whether or not there are any contraventions of the standing orders. Avrum and Jacinth have reviewed the regulations from 1989 through 1992, and those reports will be dealt with shortly.

The final topic discussed in my memo has to do with another side of this committee's regulations work. Apart from actually reviewing the regulations to determine if the guidelines have been complied with, this committee, from time to time, has looked at various aspects of the regulation-making system.

That mandate is nowhere explicitly authorized in the Regulations Act or the standing orders, but the committee's view in the past has been that there's implicit

authorization to look at the regulation-making process in section 12 of the Regulations Act, and at the bottom of page 12 I list some of the issues that the committee has looked at, although it really hasn't dealt with these issues in any systematic way for over five years.

The first issue listed is notice and comment, which deals with procedures for giving the public notice of and an opportunity to comment on proposed regulations.

The second issue is the principle of disallowance, whereby members are empowered to vote the repeal of regulations.

Thirdly, I make reference to the mandate of the regulations committee. Two examples of issues that have been dealt with under this topic are whether the committee should be authorized to examine the merits of regulations and whether the terms of reference should be expanded to include the review of enabling regulation-making clauses in bills. This was an issue that was just raised, earlier in the meeting.

In the second report, 1988, when the committee looked at the issue of how to deal with the regulation-making section in an act, it did make a formal recommendation. If I could just read the first part:

"The committee's mandate in the Regulations Act should be expanded beyond the review of regulations to include enabling clauses in bills. The committee should advise the standing committee considering the bill whether or not the enabling clauses contain overly broad or vague enabling powers."

Then the recommendation goes on to give some examples of these overly broad or vague enabling powers, one of which the committee identifies as a "King Henry VIII clause" to refer to a clause which allows the enabling act to be amended by regulation. There's also reference to the excessive reliance on clauses authorizing "any other regulations as are required to bring this act into effect," which the committee describes as "basket clauses."

The recommendation concludes: "In order to adequately assess the enabling clauses in a bill, the whole bill will have to be referred to the committee. We reiterate that the committee would not be reviewing matters of policy."

A fourth issue that the committee has dealt with—and the list on page 4 is certainly not exhaustive—has to do with the manner in which regulations are published in the Ontario Gazette. For example, should an explanatory note accompany each regulation?

That's just a brief overview of the regulations mandate of this committee.

The Chair: Any questions on Mr Kaye's report?

Mr David Johnson: I was looking at those last four. Are they called "recommendations"?

Mr Kaye: What I've included at the bottom of page 4?

Mr David Johnson: Yes, at the bottom of page 4.

Mr Kaye: I haven't worded them as recommendations, just in terms of the issues that were discussed.

Mr David Johnson: Alternatives or options or discussed issues. Looking at point 2, "the concept of

disallowance whereby members are empowered to vote the repeal of regulations" as a possibility, how in your mind would that work if that was instituted? Would this committee have that full authority or would this committee have some authority to recommend to the Legislature? Just how would that work?

Mr Kaye: The way the regulations committee in 1988 dealt with this was through a formal amendment to the Regulations Act. This is what it wished to take place. Under the proposed amendment to the Regulations Act, this committee would be empowered to make a report to the House containing a resolution that a specified regulation or part of the regulation be disallowed, and once the report of this committee had been tabled in the House, a vote would have to be held within the next 20 sitting days; otherwise the report would be deemed to have been adopted. So the House would have to take action on the report.

Under the 1988 recommendation, the Regulations Act would state that the adoption or the deemed adoption, in the case of a failure to hold a vote within the 20 sitting days, of the report had the same effect as the repeal of the regulation. So by statute this committee would have been given the power to institute a process whereby if the House did not act, the regulation would be repealed.

Mr David Johnson: So the House would have a veto in a sense, I guess.

Mr Kaye: Yes.

Mr David Johnson: From a technical, legal point of view, are there any impediments to that? It seems like a procedure that could work. The government, of course, would have control in the final analysis, being a majority on the committee, in terms of being a majority in the House. If they didn't like what the committee said, they could obviously vote it down.

Mr Kaye: From a legal perspective, if the Regulations Act was amended in this way, I'm not sure if there would be an impediment. Whether, from a policy point of view, this is what the Legislature wishes to adopt, that's a completely separate story.

Mr David Johnson: That's right.

Mr Kaye: But legally, I think the reason the committee in 1988 recommended that the process be implemented by means of an amendment to the Regulations Act was to give it a statutory foundation, because at the time, the committee heard about a disallowance procedure in Ottawa which was found in the standing orders of the House of Commons. One of the criticisms the committee heard about was that it lacked that statutory basis. The recommendation was worded in such a way as to overcome that obstacle and also to be very explicit that the adoption of the committee's report meant the repeal of the regulation, which apparently is not in the wording of the federal standing orders.

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Mr David Johnson: How does the federal situation work?

Mr Kaye: I haven't really followed it that closely since the committee looked at the issue in 1988, because as I mentioned earlier, this committee has not dealt with

these issues, but it's my understanding that the disallowance procedure has been used successfully from the committee's point of view in Ottawa three times. In all cases, it involved, I believe, regulations where the committee was saying there was no statutory authority for part of the regulation and the department involved did not challenge that; either the department agreed that there was no statutory authority or had undertaken to take action and nothing had happened.

Mr David Johnson: Are these before us today? I don't know what our procedure is here today. Maybe this is more a question to the Chair. Are we in a position today to re-endorse—I gather these were recommendations that were put forward in 1988 by a similar committee to this.

The Chair: The point of this meeting, I believe, was to basically deal with the review of the regulations from 1989 to 1992. What Mr Kaye has provided us is really background, since it's not something that we deal with very often. I think that as members, we don't tend to think about the regulation-making side of our title; we tend to deal much more on an active basis with the private bills side. So that's very much in my memory and I'm very thankful for the kind of information that the research staff have provided us with. It obviously opens up the door to what the rest of the committee wants to do, but I think that the main item for business is to look at reports for 1989 through to 1992, since those have been hanging in abeyance for a while.

Mr David Johnson: I understand that, but would you be entertaining motions that would deal with the four points, for example?

The Chair: I'm in the hands of the committee.

Mr David Johnson: In terms of the sunset clause, there's nothing mentioned in here, either in the four points, I don't think—is there?—or in terms of the 10 points that have been sort of predetermined that this committee has control over. It's hard for me to read anything in there that involves sunset. Is it your interpretation, Mr Kaye—does this committee have any authority with regard to sunset of legislation?

Mr Kaye: In the second report, 1988, the committee did look specifically at sunset clauses in regulations and it actually recommended an amendment to the standing orders to require standing committees to evaluate the effectiveness of regulations on a rotating basis. The goal was the systematic review of all regulations over a seven-year to 10-year period.

The committee also felt that before making or recommending a regulation, ministries and agencies should consider whether or not a sunset provision would be appropriate. So there were specific recommendations on sunset in the second report, 1988. If the committee wishes, I could provide members with copies of the recommendations. There was also an interim government response to this report. Both documents could be provided to members.

Mr David Johnson: I'd like to have a copy of that, for one.

The Chair: We would probably all appreciate some

of that information. Do I hear any noes with regard to that? No. Mr Kaye, perhaps you would provide some additional information.

Mr O'Neil: I guess, having been here for too long, 18 years or whatever, I forget, I've gone through this regulation bit in opposition and in government, and I can recall having sat on the regulations committee as the minister and to know how involved it is, how many regulations you're actually dealing with and the process and the length of time it takes. There are maybe some things that we should examine as a committee, some additional safeguards we could build in.

I mentioned the agricultural bill where we talk about organization, unionization of farming groups or related matters. There might be some areas that this committee could look at, but if we get into it, to be fair, it would be a very involved process and it would take a lot of time if we were to deal with all the regulations. But the committee could maybe serve as a precautionary committee, if there are some regulations we are questioning; safeguards could maybe be put in to examine certain of those regulations.

I don't know whether it's fair to ask the staff to comment on this because it's maybe more political than it is, but I just make those comments.

Mr Ron Eddy (Brant-Haldimand): The problem I've encountered with regulations is more the timing of them, and in view of what Mr Johnson has said, that the government shall govern having a majority on the committee and in the House on votes, of course that's the case.

I quite often run into this problem in an act when it's being passed in the House, "Well, where are the regulations?" Indeed, in debate in committee: "Where are the regulations? We need to see the regulations. We need to have the regulations."

We run into the problem quite often where the regulations are not prepared when a bill is passed and it's maybe several months later. I imagine what happens is that the regulations are being worked on when the bill is presented and passed, but the bill is incomplete, it seems to me, and I think that's what most members view. The bill is incomplete in many cases because the regulations aren't there where there are numerous regulations to a bill. That's what is perhaps more of a problem than what the actual regulations are or do, given and noting, of course, that sometimes—and in view, I guess, of the Henry VIII provision that was mentioned.

That's what I see and I really feel strongly that regulations need to almost accompany the bill in most cases, or really in all cases. I don't know that anything can be done about that at all, of course, but that is a problem, as I see it.

The Chair: In discussing the planning for this meeting, definitely that issue was discussed—

Mr Eddy: Oh, I see.

The Chair: —inasmuch as, at least in my own memory, in most instances bills have come forward and the regulations later.

Mr Eddy: Much later.

The Chair: I will allow Mr Kaye to obviously provide his wealth of knowledge on this because, as a librarian, I only saw it after it got printed and got put on the shelf.

Mr Eddy: Did you say this had already been discussed?

The Chair: No, not here.

Mr Eddy: Okay, because I was—

The Chair: I had a chance to meet with the staff to say what they wanted to present to us and I raised a couple of points with them that I thought you, as members, might be interested in, and this is an issue that also came up. Obviously Mr Kaye, I think, is prepared to respond to this, to some degree, and then we have a question from Mr Hansen.

Mr Ron Hansen (Lincoln): You know, if Mr Eddy—

The Chair: No, first of all, a response from Mr Kaye and then your turn, Mr Hansen.

Mr Kaye: This issue was raised in the committee a few years ago, but the committee did not take the time to examine it in any thorough way. I believe the question was raised with the registrar of regulations at the time and I think there is a three-letter response from the registrar to this question. I can check my files to locate that letter and distribute it to committee members, if they wish.

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The Chair: Ms Hopkins, since you're a representative of the registrar's office, are you aware of any of these kinds of discussions and can you add anything at this point? I know I'm putting you on the spot, so I apologize if I am, but you may be aware of this sort of issue yourself.

Ms Hopkins: I'm acquainted a bit with the issue but not with the correspondence. I can offer what's probably not a very helpful comment here that the timing of the bringing forward of regulations is a matter of the government's choice.

Mr Eddy: I'm well aware of that, of course.

The Chair: Thank you. Mr Hansen, your question.

Mr Hansen: I agree with Mr Eddy that it's been asked quite a few times with different bills on the regulations, but as the bills get amended, the regulations will change. I think maybe it becomes an argument with opposition to say, "Well, how come this has changed in the regulation?" and you explain, "Well, we've dropped that from that part of the bill." I think it just opens up the whole process of more debate. When the bill is finalized, we say, "Okay, that's the regulations according to this clause and that clause." I just wanted to comment on Mr Eddy's remarks, just so I've got clarification also.

The Chair: We've exhausted the questioners on this point. I think it would be appropriate for Mr Fenson and Miss Herbert to get into the discussion and I believe each of you has prepared a report. I can't just say it's an annual report, because some of them cover more than one year. Mr Fenson, are you the author of the report for—

Mr Avrum Fenson: On the 1989 regulations.

The Chair: For 1989.

Mr Fenson: Yes.

The Chair: Very good. Have all members got their copies? If you would again, rather than trying to go through it exhaustively, give us the highlights, please.

Mr Fenson: Sure. This report, which in fact was submitted to the committee in 1991, reports 13 regulations as being in apparent violation of three of the guidelines in the standing orders, the three that Philip Kaye mentioned: the guideline concerning retrospectivity, the guideline concerning the statutory authority under which the regulation was made and the guideline requiring that regulations be made with the precision of language.

I'll just spend one minute telling you what the procedure is in the review of regulations. The legal staff at Legislative Research Service reads all the regulations for the period being covered by the report, identifies regulations which raise problems with the guidelines in the standing orders and then corresponds usually with the legal services branch of the ministry in charge which administers the statute under which those regulations were made. Sometimes, as in the case with the Ontario Securities Commission, it will be directed to correspond directly with the commission instead of with the ministry, which at one time was the Ministry of Financial Institutions, now the Ministry of Finance, because it's so specialized. As a general rule, we initiate correspondence with the ministry.

The ministry will then communicate back with us, either in writing, or sometimes in conversations. Sometimes the problem is laid to rest by their explanation and sometimes it's not. Sometimes the problem is a matter of agreement between us and them and we report that they agreed that we know there's a problem. Sometimes they undertake to correct it—that's a different topic, whether they do correct it and how the corrections are made—and sometimes we simply have to report that we have differed on our interpretation of the standing orders.

Generally, in past reports, there's been a lot of evidence, either of agreement or disagreement. A draft report is then presented to the committee, as this one is being done today, and the committee then makes a decision about changes or tabling it as presented.

This report does not disclose problems with the regulations which are of great importance in terms of the administration of government, but they're nevertheless distinct, some technical and others more substantive violations of the guidelines. Three of them are violations of the guideline against retrospectivity. One of the guidelines provides that a regulation should not be retroactive unless the statute under which it was made specifically provides for retroactivity.

An example of a statute that provides for retroactivity is the Retail Sales Tax Act, which specifically says that regulations may be made retrospective in their effect; they may be applied retrospectively if the maker wishes them to do so. Since this is of practical use to ministries that are administering the consequences of a budget, for example, they can establish, retroactively, the application of a tax, though not create the tax itself, to an earlier date than that on which the regulation was made.

Most of the retroactivities which we have found and brought to the committee's attention have been cases of regulations which actually specify the date on which they are to come into effect, which, while not unusual, is certainly only the case in a minority of regulations, and then were filed with the registrar of regulations after that date, sometimes by only a few days, but sometimes the late filing is a matter of weeks or months.

In the past, absent any other instructions from the committee, we took a very, very strict view of retroactivity. When reviewing the 1987 regulations, for example, if we discovered a regulation which didn't say that it took place on a particular date but said something like, "The wages paid to court reporters will be such-and-such, effective January 1, 1988," whereas the regulation was made in September of that year, we reported that as being retroactive.

Ministries did not like this, understandably, and I then decided to consult with the Office of the Provincial Auditor to ask whether a regulation which referred to a previous period for payments was considered by the Office of the Provincial Auditor to be adequate authorization for the expenditure, and it was the view of the auditor that this was perfectly all right. So, we reported to the committee that we would henceforth, absent any further instruction from the committee, not be reporting such regulations as retroactive.

But in 1988 and in this report we are still reporting as retroactive regulations which—or at least through 1989 we reported regulations which missed, even by a short period, the date on which they specifically stated themselves to come into effect. It might be administratively trivial, but that was the view we took. Jacinth will discuss the view she took on later regulations.

So three of the regulations in the 1989 report deal with that kind of retroactivity, or retrospectivity, as it's sometimes called—four regulations, rather, under three ministries.

Another category of violation is violations against the guideline concerning statutory authority. The problems are of several kinds. A regulation might be made by an authority other than the authority who is named in the statute as being the proper maker of the regulation.

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To give an example from another year, a statute might state that the regulation is to be made by a minister with the approval of the Lieutenant Governor in Council and in fact it was made by the Lieutenant Governor in Council, or a regulation might state that it's to be made by, say, the council of the Association of Ontario Land Surveyors and it was made by the minister or by the Lieutenant Governor in Council. Those are reported as being in violation of the statutory authority in the sense that they were made by an authority other than the one named in the regulation.

Another category of violation of this guideline is where a regulation is made, at least in part, on a topic which is not specified in the authority.

Statutory authorities for regulations are often a section which contain a long list of paragraphs actually specify-

ing detailed topics on which regulations can be made. The longer the list, the more apt a ministry is to have, inadvertently or by reason of just a different interpretation than we take—of whether a topic corresponds to one of those many topics listed.

A special category which comes up from time to time is that a regulation will be made creating a form, such as a form asking questions of applicants for a change of name or a form used by parents seeking certain services under the Child and Family Services Act, and it'll be found that the statute does not provide authority for the making of forms.

The policy significance of this—with which we are, strictly speaking, not concerned—is that here you have a regulation requiring citizens to give information for which there may be no authority in the statute.

Those are the chief types of violations of the guideline requiring that the regulation be made within statutory authority.

The Chair: Would people mind if I asked a question at this point?

Mr Eddy: As long as it's helpful.

The Chair: I'm not sure that it's helpful.

Mr Fenson, you're raising an interesting point which I think piggybacks to some degree along with the question that Mr Eddy asked earlier on the consultation with the ministry working on a statute. You're talking to some degree about an oversight, I think. You're saying that a form was to be created and yet there were no statutory powers given and so on and so forth.

You flag that somewhere done the road. Obviously, if that discussion was held early in the game some of that problem might have been avoided and someone else would be able to say, "Hey look, this is what should be in the statute; therefore we can do our job." Where are you brought in or where are other folks brought in to make sure that these things are flagged and caught early enough?

Mr Fenson: I'm brought in, in the sense that I report this to the committee. But before the committee hears about it I've already discussed it with the ministry. The ministry is under no obligation to change its practices because I noticed something. But the Legislature is entitled to reach whatever conclusions it wants from any report that's tabled in front of it.

The Chair: At that point would the legislation then have to be changed? I'm looking at it from even at the drafting stage.

Mr Fenson: You're asking how problems that are flagged can be remedied. They can be remedied in several ways. They would have to be remedied in several ways depending on what the problem is.

Sometimes the remedy—

The Chair: Excuse me, just for the purposes of Hansard, your voice carries very well but it's not into the mike.

Mr Fenson: Sometimes the remedy is a revision of the regulation, a correction of the text of a regulation. Sometimes the remedy would be a change in the statute

to allow for the kind of regulation that was made but which we felt was not, strictly speaking, authorized by the statute.

The committee has not asked us and we have not discussed, but we have informally, among ourselves, reviewed to see the kind of response that government has had to reports that have already been tabled, for example, reports on the 1987 and 1988 regulations which the Legislature had, I think, in 1989.

It's a mixed bag. There's some response and sometimes there isn't response. If the committee wishes we can at some time give a more detailed view of this.

Sometimes, in fact, in the course of discussion with the ministry before writing the report, the ministry says, "Oh, yes, I'm glad you caught that. Next time we have a cleanup of the regulations we'll change that word," and some of the regulations were changed fairly quickly after our contact with the ministry, even before the report in which it appeared was tabled in the Legislature.

So it depends very much on how interested the ministry is, how responsive it is to the problem, how easy it is to fix. It's obviously easier for a ministry to repair a regulation than it is for a ministry to change the statute, which may be the problem, although several statutes have had slight amendments as a result of this process.

The Chair: Continue. I didn't mean to take you too far off your path here.

Mr Fenson: The third category which is reported here, as it has been reported in other reports, is that of problems with precision of language. For example, a regulation may say, "For the purpose of this regulation, a tourist camp operator means," and then it will list three items but it will neglect to have "ands" or "ors," so the rational reader will not know whether he has to meet all three criteria or whether he meets the criteria by choosing one of them. That's obviously a slip, a typographical error, and ministries are generally very good and fairly swift about cleaning that up when they have the next opportunity.

You might have a funding formula in an education regulation, a complex funding formula providing for per capita grants for students studying French as a second language in a particular school board, which will say the sum is the greater of the two and in fact only one is listed. Either a part of the formula is missing or that phrase is superfluous, but in either case somebody reading the regulation strictly will not know whether he or she is being properly guided as to rights and obligations under the statute.

That is a typical sort of problem; in other words, something beyond a mere typographical error which is patently wrong but doesn't confuse the reader. We don't waste anybody's time with typos that do not confuse the careful reader but we do point out slips which make it impossible to know with complete certainty what the regulation is meant to impose on a person or cause to happen.

I don't know if the committee wants me to run through particular regulations. There's nothing that is too exotic an example of the three categories I gave. There is a total

of 13 regulations reported under one or another of those categories in this report.

The Vice-Chair (Mrs Ellen MacKinnon): Thank you. Miss Herbert, have you a presentation you'd like to give us at this time?

Ms Jacinth Herbert: Yes, I do. I covered the period of 1990 to 1992 with respect to regulations. Much of what my colleagues have said really gives you a base of what's happening with regulations and what our job is.

My report basically goes through much of what my colleague spoke about, the areas that are of concern with respect to regulations which we found some difficulties with. If you have my report before you, I think one of the points that is important to note, which was touched on before by the lawyer who spoke before Mr Fenson, is the fact that there are a number of regulations that are made yearly in Ontario.

With respect to my report, you can see that the range is usually about 700 regulations. In 1989 or in 1990, there were 702 regulations made; in 1991, 789; and in 1992, 799, so an increase. The increase I think is because of the fact that now we are looking at regulations that are amended to include a French portion as well as regulations that are now being made in French and English. That is the new trend. So while my colleague didn't discover regs that had some French components, I found a large number of regs that were trying to comply with bilingualism in Ontario.

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With respect to my report, I noted that there are certain acts which provide for more regulations being made in a year. One of those acts, of course, which was mentioned before, is the Planning Act. Also you find a number of regulations being made under the Highway Traffic Act, the Crop Insurance Act, the Environmental Assessment Act and the Game and Fish Act. That's pretty consistent through the three-year period of my report, 1990, 1991 and 1992. You'll find those are the acts that seem to demand the most in terms of regulations made in Ontario.

With respect to the actual regulations which violated the guidelines, I found that the two areas of concern in my report were statutory authority and precise and unambiguous language.

I should note that my colleague pointed to the area of retroactivity. Within my report, I didn't refer to retroactivity. What I found was that, because it was a three-year report, many of the instances of retroactivity were caught by the ministries. Some of them were no longer significant, because we were talking about two years where something had violated in a matter of days. I didn't think that it was necessary to burden this committee with those sorts of issues, which really were issues that couldn't be dealt with at this particular point in time.

You'll notice that my report only refers to three regulations. I should indicate to the committee that I contacted eight ministries with regard to 29 regulations. I think it's a function of what this committee has been doing that the ministries have caught many of the errors they've made in the past. As well, the ministries I found were very speedy in terms of responding to some of the

issues that were brought forward to them. I found they were very receptive to the comments that we had and the letters that we wrote with respect to any violations.

Of the three regulations which I have reported, two of them deal with the area of statutory authority. As my colleague mentioned before, when we talk about statutory authority, we're really saying, "Who can make this regulation and has the right person made the regulation?"

There's one of those that is reported under the Environmental Assessment Act in which there's a question of whether or not the regulation could be made by, in this case, the minister. This one deals with legislative areas as opposed to administrative areas. That's a very technical-type area for lawyers as well as the layperson to deal with, what is legislative and what is administrative. I think with respect to that particular regulation, the ministry is of the view that it is administrative as opposed to legislative, and we are questioning the legislative component of that.

The other regulation that was reported with respect to statutory authority dealt with the Pension Benefits Act, where once again we're questioning whether or not the right person carried out the authority under that act of regulation-making. We're really concerned that perhaps this regulation may be shifting the regulation-making power to persons who are directly affected by the Pension Benefits Act. So that is one that we've reported, and I take it you've had time to look at the areas I mentioned in that.

The third regulation that was reported dealt with precise and unambiguous language. This is what I was talking about when I talked about the French regulations. This was an amendment that dealt with a regulation that was transferred from English to French, and the French version was not consistent with the English version. On contacting the ministry, they acknowledged that there was a problem with respect to the translation and that it was something they would deal with in terms of making sure that the right translation occurred.

Basically, those are the points that I have to make this morning with respect to the report, and I am open to any questions that you may have with respect to that.

The Chair: Thank you, Ms Herbert. Shall I open the floor to questions? Mr Johnson.

Mr David Johnson: It's amazing that there are only three, actually; I would have expected more. These are the three that you do not agree with—who? The government?

Ms Herbert: They're the three which I would say we're not necessarily in agreement with in respect to what power the particular authority-making falls under.

Mr David Johnson: So these three are outstanding at the present time?

Ms Herbert: They are outstanding at the present time. The matter of the French regulation, I think, is one that is fairly easy to remedy. The other two, as I mentioned, which dealt with the statutory authority, are regulations which I believe are under review by the ministries right now.

Mr David Johnson: If you look at the one involving

the Environmental Assessment Act, for example, I guess it's your claim that through the Gazette by notice the regulation could be changed. Is that your point?

Ms Herbert: No. My point is that I don't believe that it can be changed through the Gazette by way of a notice.

Mr David Johnson: That's what I meant. So that's your point, that it shouldn't?

Ms Herbert: That's correct.

Mr David Johnson: But the government is trying to make a point that this is an administrative function of some sort and you shouldn't be concerned about it, I gather.

Ms Herbert: I think that the indication is that it has an administrative component. That's correct.

Mr David Johnson: But nevertheless, your position hasn't shifted.

Ms Herbert: In all fairness, I should say that this is one of the types of regulations where you are sort of falling in the middle and saying, "Well, you know, they may have gone too far, they may not have." I think this is the type that you could fall right down the middle, where you'd find a number of people who may say, "Yes, it does have a large administrative component," and on the other side a large number who would say it has a legislative component.

Mr David Johnson: What's the role of this committee? You've brought this to our attention. Although you're waffling a little bit by your recent comments, nevertheless I think this committee is of the opinion that you have one position and the ministry is taking another position. I guess it would be my view that your position should really be respected unless they can bring some new information to change your position, and they're really duty-bound to comply with what you're bringing forward. How does that happen and what role does this committee play?

Ms Herbert: I'm going to defer that to Mr Kaye, because Mr Kaye has had a lot of experience in terms of those types of matters and I think he would be able to answer you more directly.

Mr Kaye: It's a case of this committee report, once it has been finalized, being tabled in the House and then whether or not there's a debate in the House on the report. The whole issue of what happens to the conclusions and recommendations of this committee is tied in with the issue of disallowance, which, as I mentioned, was raised and hearings were held before this committee in 1988.

If the committee finds that a regulation or part of a regulation is without statutory authority under the disallowance power as recommended by the committee in 1988, there would be a resolution in the committee's report that the regulation be revoked unless there was statutory authority, and then, if the House didn't deal with that report, the deemed adoption of the report, or the House voted to accept that recommendation, the regulation would then be repealed.

Mr David Johnson: Are you saying that if this committee is satisfied with the position that's being put

forward there could be a resolution from this committee that indeed there is not this authority?

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Mr Kaye: Not under the current legislative framework. To require the House to act on the committee's recommendation and to say that if the House didn't act within so many sitting days the regulation would then be repealed because this committee feels there's no statutory authority, that power does not currently exist.

Mr David Johnson: What options do we have here right now, as we sit here today, other than to read this? What is the purpose of bringing this before us today or what options do we have in terms of dealing with this?

Mr Kaye: I think one of the expectations is that when the report is tabled in the Legislature, the ministry involved, upon reading the report, might reassess its position. I think Mr Fenson has something to say about that.

The Chair: Mr Fenson, and then we have to turn to Mr Eddy.

Mr Fenson: The short answer is that the option is to table the report or not table the report, basically, or to instruct us to recast the report in some way. But the main power of the committee is to table a report embodying these complaints with the Legislature.

Mr David Johnson: Table it here today? Is that what you're talking about?

Mr Fenson: Or some time in the future to cause it to be tabled, to table it in the Legislature.

Mr David Johnson: How do we as a committee know what ultimately is the resolution to this, or if indeed there is any resolution?

Mr Fenson: I suppose by asking in the House whether a response has been received to the committee that's been tabled to the House, to instruct committee staff to find out if there's been some response to it and to report to the committee.

Mr David Johnson: Could we at least ask for a report back at some time? Maybe somebody else knows how this matter has evolved.

The Chair: I know Mr Eddy has a question. Can I just turn the floor over to him? That may answer your question.

Mr Eddy: I think we should be a little stronger on it and I think it's more than just tabling or not tabling this report. I note that the particular item ends up with the statement, "Thus we believe that regulation offends guideline..." etc. I think it should be stronger than that. If we feel it does offend, and I feel it does, then we should take some action.

One of the actions I had hoped we could take is to indeed have the regulation changed to provide for notices of exemption. I'd like to see how that could be done. Maybe that requires an amendment to the act. But going back to the last sentence in the first paragraph, under statutory authority it says, "We believe that the Environmental Assessment Act does not confer this form of power upon the minister."

I think the action is, immediately, that this committee

should recommend that the act be amended to so provide that. We're in the position, some of the members, of agreeing completely with some of the exemption orders. There's no doubt about that. That could be a bind, realizing probably in my own riding there are one or two. I think they should be provided for. The important thing is to provide for them legally, and that's what this is all about. I would say your report could be tabled with this, but I think there needs to be a firm action by this committee recommending to the ministry that the act be amended if that's required and we'll put everything in order forthwith. In other words, forthwith, as when this report is tabled with the Legislature, we should indeed have that amendment.

It's a fairly simple thing to do in a case like this with unanimous consent, it would seem to me, because this affects many of the members and is awfully important, the exemption orders. I'm really concerned that there is the possibility that they aren't legal all the way through. I think that should be corrected. I think we should take some firm action and I'm prepared to do that. Does that sound like appropriate action to take?

Mr Fenson: Yes, it would be.

Mr Eddy: In this case?

Mr Fenson: Yes. Tabling a report with whatever recommendations and instructions the committee wants to give is within the committee's competence and it is the avenue contemplated by the standing orders and by the Regulations Act.

The Chair: Just to expand on Mr Fenson's comments slightly, in the standing orders, subsection 37(d), under response to reports, it says:

"(d) Within 120 calendar days of the presentation of a committee report as provided in clauses (b) and (c), the government shall, upon the request of the committee, table a comprehensive response."

If members are anxious to receive a report from the respective ministry, that is part of the standing orders. So definitely I'm in the hands of the committee.

Mr O'Neil: Was the purpose of this to have the committee discuss this and report back to the House?

The Chair: Basically what we're looking at is, we have these annual reports and they have obviously been waiting for our consideration. We do have to at some point report. Obviously if there are any provisos or recommendations that you want to add, that is up to the committee members as a whole, but I do believe it is important that we look at these documents and then present them to the House.

Mr O'Neil: I just wonder, because we mostly deal with private bills—we've given very little attention to the regulations part of it—rather than doing something right away on this, why don't we take a few meetings, if we have to have another look at this, after the first of the year? Maybe there may be other regulations besides the ones that Mr Eddy suggested.

The Chair: We run into one small logistical problem, which is that this committee is not mandated to sit during the intersession. So depending on how long we sit up until Christmas, I believe we have that option, but once

the House is adjourned, we would not in fact be reconvening until probably some time in March. Obviously that's something that can happen, but I would think our memories would need to be refreshed on these issues. I think in some respects if we could move through them, if members would be anxious to have some further discussion over the next week or so, then that's up to the committee.

We can of course make a formal request of the House leaders to sit, but knowing the pressure of the legislative calendar, I suspect this committee would be on a lower priority. I'm not trying to read the House leaders' minds, but I strongly suspect that we wouldn't get first crack at time during the intersession. So to be realistic, we either deal with it in the next couple of weeks or we're looking at revisiting this some time later in 1994. By March, undoubtedly we will have the pressure of a range of private bills to deal with again, just to lay out what I see as normally coming before a range of committees.

Mr O'Neil: Again, we're not really going to approve or suggest very much with what we've got now, except I think maybe what Mr Eddy mentioned was important and could be part of it. What's the necessity of trying to get it done before we finish this session? Either we get time in March or we do it in April or May and put something a little more substantial in our recommendation when the report goes in.

Mr Hansen: I have to agree with Mr O'Neil. I think we just can't rush into this in the next week or so. We've been sitting on it since 1991. We've taken two years. I think if we do a proper job on it and take a look—you can ask the House leaders if we can sit when we're in recess, and our budget usually isn't very high in this committee, if this is something that has to be done right away, or we wind up taking a look at the end of March when we come back.

1130

I have to agree with Mr O'Neil. There's some other background information to come to the committee, and I don't think we should be very rash. Maybe we can come up with some really good recommendations on how this problem can be resolved, rather than just going ahead and saying, "Okay, we'll look at these different regulations to be changed, and leave it at that."

So those are my comments. I have to agree with Mr O'Neil. I think that we shouldn't rush into this and I think we should get this other background information.

Mr Eddy: I'm as agreeable as anyone on the committee, in fact maybe more agreeable, to sitting as long and to meeting as often as necessary to deal with all of the matters. But I have a particular concern with the first item raised, statutory authority. There's a difference of opinion here, but because these are referred to and involve exemption orders, I am very, very concerned, now that this matter has been brought up and discussed in the public domain, that there could result from this a legal challenge to an exemption order granting a temporary licence for the operation of a landfill site.

I know there are several of these that have been granted. I'm one of those who agree with them. They're

very important, but I have a great concern about this particular matter. I think the Minister of Environment would want to correct it, just to go the extra step, if you will, to make sure that everything is legally in place, because there are people who are prepared to legally challenge many or most matters but could want to challenge this in particular.

Perhaps I'm overly concerned about this matter but I think it's of great importance and I would hope that we could take action, either through persuading the ministry and the minister directly to cover this problem with an amendment to the act or at least alerting all members of the House that there is a problem that should be acted upon immediately.

I just have a great concern, and I don't know whether anyone here can relieve my concern to any degree or not. I hope they can. But because of the controversial nature of exemption orders under the Environmental Assessment Act, I'm very scared, and that's why I think something should be done. Can somebody help me?

The Chair: If Mr Johnson will permit, I think staff have provided me with—Mr Johnson was the next questioner, so I hope you won't mind if I just jump in quickly here.

As part of your research documents, part of the report for 1990-92, appendix A, item 4, states, "The standing committee on regulations may examine any member of the executive council or any public servant designated by any such member respecting any regulation made under an act that is under his or her administration."

Then also within the standing orders, clause 106(k) continues, "The committee shall from time to time report to the House its observations, opinions and recommendations as required by section 12(3) of the Regulations Act, but before drawing the attention of the House to a regulation or other statutory instrument the committee shall afford the ministry or agency concerned an opportunity to furnish orally or in writing to the committee such explanation as the ministry or agency thinks fit."

Mr David Johnson: Would you mind repeating that last part?

The Chair: The section again, the last part of it, is: "But before drawing the attention of the House to a regulation or other statutory instrument, the committee shall afford the ministry or agency concerned an opportunity to furnish orally or in writing to the committee such explanation as the ministry or agency thinks fit."

Mr David Johnson: Earlier you mentioned that there's a 120-day period for the ministry to respond.

The Chair: That's correct.

Mr David Johnson: Are those two linked together?

The Chair: No. Once the report is tabled in the House, then they would have, depending on whatever recommendations we've made, 120 days to respond.

Mr David Johnson: But before it's tabled in the House, they also have—

The Chair: We have that option of asking for either an oral explanation or a written one.

Mr David Johnson: I don't know what the schedule

is, but as you pointed out, we have not too many meetings left before the break.

The Chair: Conceivably, two.

Mr David Johnson: So is it scheduled that at one of those meetings the various ministries would—

The Chair: I will just turn to the clerk and ask if we have a pressure of private bills upon us and if we would have some committee time before we adjourn.

Clerk of the Committee (Ms Tonia Grannum): At the December 8 meeting we do have six private bills on the agenda, and a lot of those they want to get in before the recess. Depending on whether the House rises on December 9 or the following week, then we might have that extra meeting.

Mr David Johnson: That extra meeting isn't scheduled because we're not sure that it's going to be there, but in all likelihood it will be there.

Clerk of the Committee: Yes.

Mr David Johnson: I frankly don't mind this simply being tabled in the House and then allowing the ministry to have the 120 days to deal with it and responding. As I understand it, under that clause there is a requirement for them to deal with the issue and to respond back. I wouldn't be one who would try to relieve Mr Eddy of his anxieties—I think they're well placed—but at least that's a way of dealing with the situation, and in view of our schedule we may not get back to this. So rather than just let it waft off into the breeze, we might be best to table it and then let the ministries have their 120 days.

The Chair: Can I just ask the clerk for one other explanation before we turn to Mr Hansen. The bills that are proposed to come before us on December 8, from your assessment, are most of them the revival of a range of corporations? Can you give us sort of an idea? Some of them definitely flow through this committee fairly easily and we could leave some time in the rest of that meeting to continue this discussion or invite someone from the respective ministries to come forward. I think we have some options there.

Clerk of the Committee: We have three revivals but we also have the County of Grey Act, and I know they specifically want to get their legislation in before January 1. There is another private legislation that's not a revival, but I can't recall which one it is right now. They're also concerned about the time frame. Depending on how long it takes to go through those two bills that aren't the revivals, we might have some time at the end.

Mr Hansen: Sort of going along with what Mr Eddy's talking about, maybe if we had a letter from the ministry to this committee, rather than taking the other approach and tabling it in the House, so we get an explanation to this committee to make a better decision.

Mr Eddy: Certainly the letter would be helpful, but I think a presentation with the viewpoint for discussion would be very helpful.

I wanted to ask about the County of Grey Act. Is it a matter of representation on county council?

The Chair: I suspect it is.

Mr Eddy: If it's simply that, it's not going to take

very long, because we've been approving those. I think they're mostly reductions of the members of county council. There are alternatives in the act. We've been approving many of those on an ongoing basis.

Mr Hansen: Yes, we've had two of them already.

Mr Eddy: It sounds to me like there would be time. I think it's important enough to put it on the agenda and indeed deal with it, if we can, this aspect.

Ms Herbert: I was simply going to comment that of course my report and my referral to that particular regulation is a précis based on my communication with the ministry and the ministry's communication with me. I was going to suggest that if this committee had that correspondence, perhaps it may flesh it out a bit more. I think the clerk could provide that for the committee.

The Chair: Thank you, Ms Herbert, and I know that Miss Grannum will make sure that we have that.

Mrs Ellen MacKinnon (Lambton): The County of Grey Act: Is the county asking for name changes as well as the reduction of county councillors?

The Chair: That's Simcoe. I think this would be the third one that has come before us in a fairly short period of time. I think we could probably handle that expeditiously.

But let me clarify with the committee just to make sure that we are on track. As our order of business for next week, we will look at the private bills, I guess the six that are scheduled, the five that are coming before us, and then for the remainder of the meeting we will request that someone from the ministry—

Mr Hansen: We'd have to get a written response, I think. Was it a written response from the ministry? Is that not correct?

Ms Herbert: Yes, I believe a written response was received.

The Chair: You have a range of correspondence that the clerk will then distribute to the committee members.

Ms Herbert: I believe that Miss Grannum would have that.

Mr David Johnson: On all three?

Ms Herbert: Yes.

The Chair: So we will have the correspondence on the concerns raised in the reports, 1990-92, for the members. That will be discussed then as the latter portion of our meeting on December 8.

Mr David Johnson: There are three issues.

The Chair: There are three issues. That's why I said the issues that are flagged in this particular report will be the points for discussion as the latter part of our meeting on December 8. Is there a consensus on that then? Agreed.

Any other business at this point that the members wish to raise?

Mrs MacKinnon: I have a question. In the event that next week doesn't happen the way you have laid it out—I must say it sounds wonderful—will some of this die on the order paper?

The Chair: No.

Mrs MacKinnon: Okay, fine.

The Chair: No. We will deal with the pressing business of the private bills first, and then if we have room for the discussion on these reports and if in fact we do have a committee meeting the week after, we will have that as our order of business.

Mrs MacKinnon: But then the concerns that these people are bringing to us today will carry on when we reconvene, be it, whatever, March or April?

The Chair: That will then be for the committee to decide. If we want to request from the House leader's office a morning or something during the intersession, that is up to us, or we can then proceed to do it later on. But that's something where, having a paper record in hand, we can, with more knowledge, make that decision, either December 8 or 15.

I thank all the members and staff for their patience and input.

The committee adjourned at 1144.

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**In attendance / présents*

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Staff / Personnel:

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Standing committee on
regulations and private bills

Comité permanent des
règlements et des projets
de loi privés

Chair: Christel Haeck
Clerk: Tonia Grannum

Présidente : Christel Haeck
Greffière : Tonia Grannum



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STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 8 December 1993

The committee met at 1006 in committee room 1.

GROUPE CONCORDE INC ACT, 1993

Consideration of Bill Pr68, An Act to revive Le Groupe Concorde Inc.

The Chair (Ms Christel Haeck): Ladies and gentlemen, I'd like to call the standing committee on regulations and private bills to order. We're going to make a small change in the agenda.

I would ask Mr Carr and the representatives who are here for Bill Pr68, An Act to revive Le Groupe Concorde Inc, to come forward. Mr Carr, if you would introduce your applicant and make a few opening comments, then we can continue.

Mr Gary Carr (Oakville South): This actually is on behalf of Mr Harris. The gentleman with me is Mr O'Hagan, who is very familiar with the situation and can give you a brief explanation, and then if there are any questions, he'd be prepared to answer them for you.

The Chair: Mr O'Hagan, would you explain to the committee what we are presented with here.

Mr Edmond O'Hagan: This is an application to revive a company. The company lost its charter for failure to comply with the Corporations Tax Act; that is, failed to file its returns on a timely basis. This has all been rectified. All of the corporate taxes have now been paid. We have received the consent of the corporations tax branch. We also received the consent of the public trustee. As far as I'm aware, there are no objectors to this application for revival.

The Chair: Thank you, Mr O'Hagan. Let me test the floor just to make sure that there are no other interested parties who would like to come forward. Is there someone else in the audience who would like to comment on this bill? Seeing none, I will turn to Mr Ruprecht.

Mr Tony Ruprecht (Parkdale): You're going to turn to whom?

The Chair: Mr Ruprecht.

Mr Ruprecht: Okay, that's fine.

The Chair: Or would you like me to call you Tony?

Mr Ruprecht: No. It just seems to me that Mr Harris, who is sponsoring this bill, is not here, but Mr Carr is here. They've thought about this in detail, I'm sure, and most of us would probably want to congratulate Mr Harris and Mr Carr on their fine work with this bill.

The Chair: Thank you, Mr Ruprecht, and I'm quite sure that we will all have that opportunity momentarily. Mr Hayes would you like to make any comments at this point on the part of Municipal Affairs?

Mr Pat Hayes (Essex-Kent): We have no objections to this bill.

The Chair: I will put the question to the floor then. Are members ready to vote on the matter before us? Agreed. Very good, the members are agreed.

On Bill Pr68, shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you to Mr Carr and Mr Harris and Mr O'Hagan. The deed is done, so to speak.

ALL-WOOD LAND CLEARING LTD ACT, 1993

Consideration of Bill Pr67, An Act to revive All-Wood Land Clearing Ltd.

The Chair: Is Mr Bassett here for Bill Pr67, An Act to revive All-Wood Land Clearing Ltd? Mr Fletcher, would you, on behalf of Ms Murdock, continue.

Mr Derek Fletcher (Guelph): On behalf of Ms Murdock, I would like to introduce Mr Bassett from Comptax Filers Tax Services Ltd on Bill Pr67.

The Chair: Mr Bassett, could you then make some remarks about your bill.

Mr William Bassett: I'm acting on behalf of the shareholders and the president of All-Wood. It was cancelled effective May 17, 1988, for failure to comply with the Corporations Tax Act. All these matters have been satisfied. Moneys owing have been paid. I would ask that the bill be given consent by you.

The Chair: Thank you, Mr Bassett. I do have to test the floor to see if there is someone who has some other concerns to present. Is there someone else in the audience who would like to come forward at this time and present their concerns relating to Bill Pr67? Seeing none, I will turn to Mr Hayes, on behalf of Municipal Affairs, to make any concerns known.

Mr Hayes: Due to the fact that Mr Fletcher did a very good job presenting this, our ministry has no objections.

The Chair: Are there any questions?

Mr Ruprecht: Just briefly, Madam Chair, you realize of course that Mr Bassett was here, I think it was, four weeks ago. I just wanted to ask him whether he's making this a regular habit now of establishing a new business in this field.

Mr Bassett: Yes, it creates more money for the coffers of the government of Ontario. I'll try.

The Chair: We always like a little levity at this hour of the morning.

Mr Hayes: We appreciate that.

The Chair: Are members prepared to vote at this time? Agreed.

Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

The Chair: Thank you very much, Mr Bassett and Mr Fletcher.

UKRAINIAN PEOPLE'S HOME
IN PRESTON ACT, 1993

Consideration of Bill Pr73, An Act to revive Ukrainian People's Home in Preston.

The Chair: I would like to call Mr Cooper.

Mr Fletcher: Do you want me to do it again?

The Chair: Sure. Mr Fletcher will sit in for Mr Cooper. If Mr Korz and the other representatives from Bill Pr73, An Act to revive Ukrainian People's Home in Preston—

Mr Fletcher: On behalf of Mr Cooper, I'd like to present Bill Pr73, An Act to revive Ukrainian People's Home in Preston. Mr Korz is not with us today, but Mr William Rozad will be here presenting.

The Chair: Mr Rozad, would you then like to make any remarks and also introduce the other gentleman who is with you.

Mr William Rozad: Unfortunately, as you were just informed, our solicitor was unable to come. He has a very important court case. I will try to do my best. I think the best picture I can present—I'm not quite prepared for this—is a letter that we sent to our very distinguished member of provincial Parliament, Mr Mike Farnan. This letter was dated July 31, 1992.

"Dear Sir:

"We are writing to you to ask your assistance in re-establishing the Ukrainian's People's Home in Preston, which was incorporated as a corporation, number 0030140, under the Ontario Corporations Act.

"Over the years, our organization continued to function. However, through inadvertence it would appear that the above-noted corporation was dissolved by the Ministry of Consumer and Commercial Relations on July 17, 1977. The membership that existed at that time continued to function in the belief that the corporation entity did continue, and does continue to this date. Unfortunately, we do understand that this is not the case and we would like to have the corporation reinstated."

This just would give you the picture. Mr Farnan kept the ball rolling, so to speak, and we are here today and are hoping that you do reinstate our corporation.

Rev Ivan Waszczuk: I am Father Waszczuk from Preston. I am pastor of the Ukrainian Catholic church in Preston and I know that beside the church we should have some other organization, charity organization, to help each other, you know, and advise each other and so on. A lot of people came from Poland and Ukraine and they needed such help, and this society, our association, has been very necessary in this point in our community.

The Chair: Very good. I know all of us have similar organizations in our communities, so we recognize your concern in making sure that everything is in order. I would ask if there are any other applicants in the audience or citizens who might be concerned about this bill, if they would like to come forward at this time. Seeing none, I would ask if there are any questions on behalf of the members.

Mr Ron Hansen (Lincoln): I think this is straightforward, just something that's been overlooked. I'll support this bill.

Mr Ron Eddy (Brant-Haldimand): I don't have a question, but certainly I support the bill and I just would like to remark that it's nice to see the name Preston preserved in spite of the imposition of regional government, it now being part of Cambridge, the name that's on it.

Father Waszczuk: Cambridge, yes; I'm sorry.

Mr Eddy: No, that's fine. Thank you.

Mr Ruprecht: I'm happy that Pastor Waszczuk came down today because that just gives added support to the whole community and I'm delighted to be able to support this bill.

The Chair: Mr Hayes, in your Ministry of Municipal Affairs hat, would you like to make any concerns known?

Mr Hayes: Just like the rest of the other happy members here, I'm quite delighted too. The Ministry of Municipal Affairs does not have any objections to this bill. I support it.

The Chair: Let me ask then if the members are ready to vote? Agreed.

Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

Very good. Gentlemen, the deed is done. Oh, one moment.

Mr Hansen: I'd like to move a motion here that the committee recommend that the fees and the actual cost of printing at all stages and in the annual statutes be remitted on Bill Pr73, An Act to revive the Ukrainian People's Home in Preston. I hope the committee agrees to this.

The Chair: Very good. You've heard the motion, committee members. Is there support? Any negative comments? None. Agreed. So you have, according to the motion, your printing for free at this point.

Father Waszczuk: Thank you so much, Madam Chairman, and all members of the Parliament. You are appreciated and some time we will show you the success of this association.

The Chair: Thank you very much for coming before us.

TOWNSHIP OF GLANBROOK ACT, 1993

Consideration of Bill Pr63, An Act respecting the Township of Glanbrook.

The Chair: Now we have Mr Morrow and representatives from Glanbrook township dealing with Bill Pr63, An Act respecting the Township of Glanbrook.

Mr Mark Morrow (Wentworth East): Thank you very much, Chair. I'd like to introduce you this morning to Nancy Smith, the solicitor for the township of Glanbrook, and Harry Kooyman, the deputy clerk for the township of Glanbrook.

The Chair: Very good. Which one will be speaking first?

Ms Nancy Smith: I will be speaking.

The Chair: Okay, Ms Smith. Would you then make some opening remarks regarding your bill.

1020

Ms Smith: As the members of the committee are no doubt aware, municipalities in Ontario may only exercise the powers that a provincial statute grants them. What is before you this morning is a bill authorizing the township of Glanbrook to pass bylaws dealing with the regulation of the dumping of fill within the township boundaries.

If we look at the Municipal Act, municipalities are presently authorized to pass bylaws dealing with the dumping of refuse, of garbage, of debris and those sorts of things on private property. However, it's questionable whether this authority in the Municipal Act authorizes bylaws regulating the dumping of fill. By fill, we mean things like gravel, rubble, earth and that kind of thing. This legislation before you removes that doubt as to a municipality's—and in this case the township's—authority to regulate that sort of substance.

As you can see from the compendium, and I'm not sure if committee members have it before them, other municipalities in Ontario have found a need to fill this gap in the Municipal Act. There has been special legislation almost identical to what is before you today that has been passed on behalf of these other municipalities in order to fill this void.

A municipal bylaw that may be passed pursuant to the legislative authority that this bill will grant will work in conjunction with similar legislation; in fact, regulations that have been passed under the Conservation Authorities Act. As outlined in the bill, you'll note, however, that a municipal bylaw passed pursuant to this act will not interfere with the regulation of conservation authority lands. That will remain, of course, under the jurisdiction of the conservation authority.

In addition, this bill does not and is not intended to interfere with normal agricultural practices at all. What it does is it empowers the township to regulate the placing of fill on lands to ensure that proper grading and proper drainage patterns are maintained and to ensure that nuisances aren't created for adjoining land owners and for the municipal infrastructure that's in place.

If I can refer committee members briefly to section 1 of the bill, that really outlines the meat of what the township will be authorized to do. If you go through that very briefly, you'll see that what the township is concerned about are things like grading, and you'll see that authorization in clause 1(1)(b). You'll also see that they will be entitled to put in place a permit system for the dumping of fill on lands within the municipality. Grading plans may or may not be required, depending on the particular situation. It's these sorts of land use concerns, which are generally within the purview of a municipality to deal with, that the township is looking to potentially regulate here.

Glanbrook is a rural municipality, as you may know, and there's a real fear that without the authority to

regulate the dumping of fill, Glanbrook may become some sort of dumping ground for this kind of material that comes from construction in the area. It's the municipality's intent not to prohibit this activity, and this bill does not authorize prohibition; the intent is to simply give the municipality some teeth in dealing with this as a potential nuisance to the land owners who may surround a property owner who would like to engage in this sort of activity.

If there are any questions on the contents, I'd be pleased to address those.

The Chair: I have a question at this point from Mr Mills.

Mr Gordon Mills (Durham East): I'd like to ask the parliamentary assistant, if my memory serves me right, it was only a short period of time ago when we had a similar bill before this committee relating to fill, grading and all those things. I wonder if my memory is right, or am I slipping?

The Chair: I believe the compendium actually lists something.

Mr Mills: Oh, does it? I haven't got that. I haven't got the compendium.

Mr Hayes: If I may, Madam Chair.

The Chair: Mr Hayes, yes. Please continue.

Mr Hayes: Yes, you are correct: Caledon in 1992, Lincoln in 1992—

Mr Mills: I forgot about Lincoln.

Mr Hayes: —Uxbridge in 1992, and then there are others, Scarborough, 1985; Brampton, 1985; Oakville, 1990. So similar bills to that, yes.

Mr Mills: That leads me to my next question. Having dealt with a similar bill in other communities, I'd like to know if there are any objections to dealing with this one likewise on the basis of expediency.

The Chair: I would think that is not a problem. The only question that I think I very legitimately have to pose is if there is anyone who has a concern about this particular bill, and at that point there might be a representative from the public. So let me pose that question, if there is anyone in the audience at this point who would wish to come forward relating to Bill Pr63, An Act respecting the Township of Glanbrook.

Please have a seat and introduce yourselves and then the members can obviously hear your concerns. It's nice to see someone from St Catharines here.

We need a mike. We need some technical assistance here or possibly an exchange of seats would be useful.

Mr John Crossingham: I want the Chair to note that I am moving to the left.

The Chair: Thank you, Mr Crossingham.

Interjection.

The Chair: No, he's just about to move over. He's just getting a glass of water.

Mr Eddy: In view of the fact that we have this changing of chairs, in view of the fact that there are four chairs and in view of the fact that there are only three that mike, why is it not possible that we could extend and

have one additional mike at that? This is happening all the time.

Mr Fletcher: Someone must have taken it out.

Interjections.

The Chair: It's being dealt with, Mr Eddy.

Mr Eddy: Oh, there is one. I usually carry one in my pocket.

The Chair: Mr Veri, who is one of the interested parties, has taken the technical task upon himself. Mr Crossingham, if you would like to make your statement, please proceed.

Mr Crossingham: My name is John Crossingham. I'm a solicitor in St Catharines.

I am familiar with the problem of fill and related matters in the Niagara area in that I act for the town of Niagara-on-the-Lake, which I am not representing today, but it is a rural municipality, not dissimilar to the Glanbrook situation. I also act for the Niagara Peninsula Conservation Authority, which I am also not representing today, but I can assure you that a great deal of my practice is taken up with the issue of fill and the regulation of it.

It would be my submission that the bill that is before you today is, first of all, unnecessary and, second of all, excessive in its scope.

It is unnecessary because, first of all, the municipality, to the extent that it is engaged in a subdivision process, has control of grading on its lots as a result of the subdivision plans. Indeed, further, where the municipality has drainage legislation in place, the drainage controls how fill can be placed within any area where drainage is critical.

Section 41 of the Planning Act permits grading to be a consideration on any site plan application, and the municipality is quite open, if it wishes to do so, to impose site plan control on any property within the municipality. I'm willing to wager that they have not chosen in their official plan to put site plan control in their agricultural areas, but that is a policy decision of the municipality. It is not a reason for them now to come and say, "We want another power," when the power to control grading is already there. I admit that it is also contingent upon there being a redevelopment or building being placed on the land.

The other reason I think this is an excessive situation is that the conservation authority already has fill regulations in areas that are environmentally sensitive on the creek beds and river beds within the area. Glanbrook is partly drained into the Niagara area, but it also, I believe, drains into other conservation authority areas. But the regulations none the less are available.

1030

Finally, if fill on the land is a nuisance, it's an item that's actionable between neighbours. It is not something that necessarily invites municipal control. I think it's a balancing of the public and private interests that we're engaged in here and that I would like to address to you as well.

Finally, I understand also from the background to this

matter that one of the things that spurred this thing was a collection of what might best be described as trash or rubble on a particular piece of property. The municipality, to the extent that it's dealing with junk, has powers pursuant to the property standards bylaw sections of the Planning Act to, again, impose controls.

If indeed we're trying to address junk, what we're doing is imposing unnecessary restrictions on a legitimate placing of fill for agricultural purposes, which I don't see exempted in the legislation. It may have been amended in the last few minutes, but certainly in the draft that I've received from my client, which was the latest one as of about a week ago, or December 1 when the mailing came out, that does not deal with it.

Also, and this gets into the issue of it being excessive, and it's perhaps appropriate that we shift to that topic as well, I did distinctly hear the counsel for the municipality indicate that there would be no prohibition on the placing of fill. Of course, that's directly contrary to clause 1(1)(a), which empowers a municipality to prohibit or regulate the placing or dumping of fill in defined areas. If in fact there's an amendment to remove "prohibiting" and merely make it "regulating," that leads us again to the excessiveness of this situation.

I think it's best if we contrast what the situation is in the conservation authority regulations with what has been happening here. That very simply is, first of all, the conservation authority's regulations were enacted for a very real purpose, and that was to deal with flooding and the control of storage capacity in the river valleys so that floods would be minimized and the water velocities would be reduced.

When those regulations have been imposed, they've been imposed with some very real objective standards. A person can go and take a look at a map that has elevations on it and lines drawn on it and say, "Yes, I am in" or "I am out." If I am in, then I have to go and obtain a permit from the conservation authority and I have objective standards against which I can measure whether my fill is good fill or bad fill, my construction is appropriate or inappropriate.

There's nothing in this legislation that allows that type of situation or, more particularly, imposes that type of restriction on the municipality in enacting its bylaws. It gives carte blanche to the municipality, whereas for a conservation authority, which I think has a stronger overriding public purpose in controlling fill, a very legitimate purpose of public safety and emergency standards, they are required to bring to the cabinet a series of regulations that sets up how they are going to control the fill and engineering studies to show why the fill would be dangerous in a particular area. There is no control of that nature in this legislation and none proposed. I think that is a dangerous and excessive exercise of municipal authority.

The permits, in effect, could cause considerable difficulty to the construction industry in the Glanbrook area and considerable difficulties to the agricultural community in the area, because there is no reasonable way of determining what the standards are that the municipality is going to impose. I think there should be

considerable extra thought given to this bill so that the list of exemptions could be considerably expanded.

Right now, the bureaucracy has looked after itself very well. If you look at section 3, the Environmental Protection Act is considered, the Public Transportation and Highway Improvement Act is considered. Anybody who's acting under the Crown Agency Act or any regional municipality or conservation authority or school boards are exempted, and anybody who has a licence to operate a pit or quarry.

But where is agriculture in this? Where are they in a specific list of exemptions? Where is the construction industry on the specific list of exemptions?

The problem with the private member's bill—and I know it's a sincere attempt on the part of the Legislature to circulate and to gain public input, but I think this is a case where the municipality should be sent forth from this room and told to specifically consult with the Ontario Federation of Agriculture, with the local federation of agriculture in the Glanbrook area. The Christian Farmers Federation of Ontario I know has expressed to my client a concern about this legislation and would like to have further understanding and input into it. I think the Ontario Home Builders' Association should be consulted, at least the local chapter in the area concerning Glanbrook.

A final point I would like to make to you, and this is a bit of a plea as well, because I practise in the areas that are strongly involved with the Ontario Municipal Board, and I know the Chairman is familiar with that: I don't believe the Ontario Municipal Board is equipped, in terms of staff and time, to provide any sort of reasonable remedy.

As a solicitor practising in this area, I will tell you that it is at least, as an absolute rock-bottom minimum, a 12-month wait period for an OMB hearing; 18 months is not an exaggeration. To have somebody tied up on their agricultural process, as to whether or not they can place fill on their land, for an 18-month period is simply an intolerable proposition.

You may consider looking at the drainage tribunal. They're slightly less backlogged, as of when I last dealt with that organization. You may consider referring it to a judge, but the whole problem that the drainage tribunal, the OMB and the judge are all going to have is that there are no objective criteria on which an adjudicator can sit down and say, "Is this reasonable or unreasonable?" That is indeed a major problem that a municipality is going to face in dealing with this, and I have very real concerns about the manner in which this whole bill has been put together.

I know there are bills that are in place, and I know from discussions with some of the individuals locally—particularly dealing with the town of Lincoln bill, where somebody came along and said: "I'm digging a basement. I've got to put the fill somewhere." "Well, you need a permit." "Can I put it here?" "Well, no"—and you get into a whole new level of impediments to the public process of making things happen in this province, and I don't think it's an appropriate one. I think the cure is a far bigger problem than the disease it's aimed at. I would ask you to make sure that these other groups are con-

sulted before taking further steps with this legislation. Thank you very much, Madam Chairman. Those are my submissions.

The Chair: Does Mr Veri have a few remarks at this point? Then we have some questions from committee members.

Mr Victor Veri: Yes, I do. I have a short statement to make. My name is Victor Veri. I farm for a living. Just recently I've attended several OMB hearings on comprehensive bylaws and how it negatively restricts agricultural uses and rights on agricultural land.

I have had direct contact and have done considerable research with Albert van Donkersgoed, who is the policy research director for Christian Farmers. I am a member of the OFA as well, the Ontario Federation of Agriculture, and I have been given the authority today to speak for both of these farm organizations that are now recognized as the only farm groups for stable funding. Once that's in place, I'm sure we'll have more money to make our issues known as a group, as a very limited group, it appears, in population in total.

However, it's unfortunate that due to my late notice as of yesterday by mail of this meeting today, I'm unable to round up speakers from both groups. I have conferred with them over the phone and issued them with some documentation, and they both have given me the go-ahead today to speak in their absence.

Christian Farmers have asked that I act on their behalf, that this act not see further passage until the CFFO is given the opportunity to formally address this act, with all the problems it will create on the agricultural sector. In principle, the OFA has similar concerns, and I am also a member of the OFA and have been given the go-ahead to say this today: that they also request a similar halt to any further passage in order for their official concerns be noted, heard and considered.

My own personal question to the members here today is, do we need to rush this through? Why can't proper official representation be given an opportunity to speak against this act? We must be allowed the opportunity. That is my submission.

1040

The Chair: Thank you, Mr Veri. I have first Mr Hansen and then Mr Mills.

Mr Hansen: I was here to represent Lincoln for the private bill that was presented. At that particular time, there was a problem, with the subdivisions that were going in, of piling of topsoil: large piles, no grass cover, sitting for three and four years. Sure it's in the site plan, but the people were putting up with sandy loam blowing into their homes adjacent to the subdivision, which hadn't been completed. That was one of the biggest reasons that Lincoln wanted that particular bill so it could move ahead and instruct the subdivider to store this topsoil; either covering it with sod or some means so it wouldn't be blowing around, especially when the subdivision was only half-completed.

Mr Crossingham: Do you want a response to that, if that's appropriate?

Mr Hansen: Yes.

The Chair: Just a moment. I just want to make sure that Hansard got you on record, so introducing you again.

Mr Crossingham: Thank you very much. The light has come on here. I don't know whether that's an important sign or not. I feel liberated.

I think the answer to that is that the subdivision process itself does provide a number of controls, if people sincerely wishing to subdivide are going to be faced with that. But I don't see how that gets to such a broadly sweeping proposition as what we have here. I can understand the cure, but I think the cure there really lies within the Planning Act framework, because you have in that framework an ability to impose such controls as part of the subdivision process; basically, it's a *carte blanche*. We're dealing in essence with a temporary use of the land while it's being redeveloped. This seems a rather excessive way of going at it, and a more appropriate way would be to tackle it through the planning process itself, which has those controls.

It's my client's concern. When he gave me the bill yesterday, I read it and thought, "What am I going to do when I get up there?" and then I read the bill and said, "This has got some very real problems." I juggled my schedule so I could make it here this morning, because I think it's very important that this not be put through, particularly because of the agricultural repercussions and I think some repercussions on the construction industry. I don't think they should go hog-wild, and I agree with the situation you've posed, but I don't think this is the tool to get at it. That's my concern.

Mr Hansen: At that time, there was no opposition from the farming community in Lincoln. There was only one objector, who had stored a lot of asphalt cement on his property. This was one of the reasons also, that it was an eyesore on Ontario Street, the main street going into Beamsville, and they had no controls to get him to clean it up.

I told the town of Lincoln that the ministry was taking a look at a bill which would cover all of Ontario so all the municipalities didn't have to come forward with their own bills. As stated earlier, there are about five or six municipalities that have found it necessary to come forward with a similar bill. Not being a lawyer, I find that the municipality's hands were tied, so they had to have this bill passed in order to enforce the infilling, let's call it, of certain lands within the municipality.

Mr Crossingham: I have a great deal of respect for the solicitor who acts for Lincoln. I know him well and I've discussed matters with him on a number of occasions, but I know for a fact that in the town of Niagara-on-the-Lake we have used our property standards bylaw, which I would have presumed Lincoln has and certainly has the authority already to pass, to clear up rubble and debris situations such as you've outlined. I know the city of St Catharines has taken similar steps.

Part of the problem in this area is there are myriad regulations, not all of them necessarily consistent with each other. There are some great sections in the Municipal Act that make absolutely no sense, and I can think of a few other pieces of legislation where they've gone all over the map because it's a statute that's evolved over

150 years. I believe the authority exists to deal with the type of situation you've outlined without bringing this sort of legislation into life.

Mr Hansen: Maybe, if there's objection from the ministries, rather than us talking back and forth, we could get a clearer picture. I know Mr Mills has a question, but maybe it would be cleared up also.

The Chair: Mr Hayes also has a couple of points to make. Mr Mills, if you could hang on for a second, Mr Hayes has a couple of ministry comments that may clarify a couple of points, and I know the solicitor for the township also wants to make some remarks. Mr Hayes first.

Mr Hayes: Thank you, Madam Chair. On this particular bill, there were some concerns from the ministries of Agriculture and Food and Environment, as well as the OMB and the Attorney General's office. We have tried to address these with some amendments. Even though the issue dealing with normal agricultural practices would be covered under the Farm Practices Protection Act, at the same time, these amendments we have coming forward don't really address the concern with Ag and Food directly. They do with the Drainage Act, because the Ministry of Ag and Food was concerned that municipalities might use the bill to regulate works that are covered under the Drainage Act and prohibit or regulate the dumping of fill, which may be a normal agricultural practice.

I would suggest to the committee, Madam Chair, that we defer this bill until we can address the issue dealing with agricultural lands, normal agricultural practice; an amendment that will address that concern. I'm sure that would satisfy everyone's concern if we were able to do that.

The Chair: I'm first going to turn to the solicitor for the township and then Mr Morrow.

Ms Smith: I just wanted to state, and I alluded to this in my opening comments, that this bill is simply before you today to fill what is perceived in some legal minds as being a hole in the Municipal Act. Municipalities are presently authorized to regulate the dumping of "garbage" and "debris."

It's simply a language issue. There's some concern among certain legal opinions, and Mr Crossingham may disagree with this legal opinion, but there are legal opinions out there that say there may be some doubt whether or not the Municipal Act authorizes the dumping of things like rubble, which fall under the heading "fill." The reason a number of municipalities before the township of Glanbrook have come before the committee to get this legislation is simply to resolve that legal debate.

If Mr Crossingham is right and this legislation is not required, so be it, but there is an ambiguity there and that's why the township and these other municipalities have attempted to resolve that.

There were a number of points I wanted to respond to that Mr Crossingham has brought up, but the major one is that this is enabling legislation. This legislation does not create a system. This legislation authorizes the municipality to create a system for regulation. The

passing of that bylaw by any municipality is a public process. Mr Veri and citizens and groups that Mr Veri has alluded to are part of that public process and can and will have input when the system of regulation is devised by the township of Glanbrook. To say that public input should take place at the authorizing legislation stage I think is misguided.

This legislation does not create the system. Agricultural concerns and that sort of thing may very well be part of the system of regulation that the township of Glanbrook ultimately comes up with. It has to respond to its constituents in passing any bylaw. All this legislation does is authorize a bylaw to deal with what may not be already authorized in the Municipal Act.

1050

The Chair: We have obviously generated lots of conversation. Mr Mills did have his hand up earlier, so I'll turn to Mr Mills first and then Mr Morrow.

Mr Mills: I listened to the deputation from Mr Crossingham and all the arguments and I've listened to the arguments from the solicitor representing the township of Glanbrook. What leaves me in a bit of a conundrum is this: We've sat as this committee, you know, and we've passed this type of legislation so many times and heard the same sort of arguments coming forth at that time, but notwithstanding that we gave the respective municipalities the right to bring about some enabling legislation.

I have a problem, if suddenly we've done wrong for all those before and now suddenly we're not going to do this, about consistency. I think that the basis of our decisions must be made upon being consistent as a committee. I would be very perturbed—and we've heard the list of all those others that have been before us and have been granted this sort of bill to enable them to enact legislation for regulations—if suddenly we say, "No, we're going to have a second look at this." Then what happens to all those other previous—perhaps, in my ignorance, there's some comment from the legal staff here or the parliamentary assistant.

Interjections.

Mr Mills: Consistency, yes.

The Chair: I'm not sure what's in the water this morning, but we've all got comedians this morning.

Mr Eddy: Consistency is a virtue.

Mr Hayes: With regard to Mr Mills's concerns, I agree with him wholeheartedly about the consistency, but you also have to take into consideration that the Ministry of Ag and Food, whether it slipped by or whatever, but this is the first time in this particular kind of bill that the Ministry of Ag and Food has actually raised a concern—not an objection but a concern—to make sure that no one could come up, I guess, with maybe frivolous charges against a farmer in the area. This is a concern and that's why I made the suggestion that it be deferred so we can address that particular issue dealing with normal agricultural uses.

I'm just making that recommendation to the committee. I don't know if either party has any objections to that, but I think this is just a little housekeeping kind of an

amendment to make sure it is spelled out that this will not interfere with normal agricultural practices. That's what the recommendation is.

Mr Morrow: I'm going to concur with Mr Hayes on the fact that I think Ag and Food should have a look at it. The area does have an awful lot of farmers. I also think that maybe the OFA and the Christian heritage farmers association should get involved. I agree that maybe it should go on the back burner for just a while, till the groups are consulted.

Mr Eddy: Thank you for the opportunity to speak. I agree with one of the speakers that there certainly is a hole, if you will, in the Municipal Act. Certainly the municipalities need the control to regulate fill. I see it as more of a protection for agriculture indeed than a gross restriction, as has been painted.

I think you have to realize where the township of Glanbrook is located. It's located adjoining the city of Hamilton. There's a lot of fill, no doubt, that comes out of projects in Hamilton, so where does it go? It goes to the nearest places, and Glanbrook is one of those.

I can see, considering that Glanbrook is fairly heavy clay soil, I believe, somewhat poorly drained—and the drainage is very important. It's all well to say, you know, the Drainage Act and you can go under this act and that act and this other act, but the Municipal Act is a much simpler thing. It should have been in there, which leads me to a request to the ministry to look at this. Let's get an amendment to the Municipal Act and either have it say what it should say or get the thing out of there completely and not have it necessary for municipalities to come forward, as several have, and there will be many others, requesting special legislation to fill this hole that's caused by the Municipal Act.

I sympathize with the view, and of course Mr Veri states the opinions of OFA and the Christian Farmers, but really it has to be a representative from the executive of one of those organizations authorized to speak, because his permission is verbal, his presentation is verbal and it needs a representative from them. I'm prepared to give them the time to look at it certainly and say whether there's some additional wording or an amendment to the bill that might cause them to feel more protected, but I really feel so strongly that this will protect agriculture because it's the drainage situation, and when you dump fill, regardless of the rules, some lands are affected.

I'm upset that the Ministry of Agriculture and Food has not come forward and stated through either a representative of the ministry or a written opinion. It should have been here on the other bills. You know, I just don't understand why seven go through and then there's one that's suddenly a concern, unless they've been alerted to it, of course. I think they should have the opportunity to present what they feel about the bill and if they have concerns, but when they come forward with either a written or an oral presentation, I demand to know why they didn't comment on the others. I think we're entitled to know that.

Although I'm in favour, because I realize what municipal governments are faced with, being powerless on so many occasions that they feel they need to restrict or do

a corrective thing, although I support it, I certainly feel that any and all comments that people want to make should be considered. Let's take a look at it and see if we can satisfy the concern, if OMAF does indeed have a concern. Thank you.

The Chair: Was there a legal comment to be made from ministry staff? No. We have a couple of other questioners. Mr Hayes, you have something to clarify this morning?

Mr Hayes: Yes, thank you, Madam Chair. It's just a point that, you know, these bills come forward like this and we have a whole list of them. Of course, you do realize that the final report of the Commission on Planning and Development Reform in Ontario—and that's the Sewell report—has recommended that the Planning Act and other legislation be amended so that municipalities are permitted to regulate, for example, tree cutting, vegetation removal and changes in elevation and placement and removal of fill and removal of peat. Hopefully with the support of all three parties in this Legislature, we will have that Sewell report passed and up and running and it won't be necessary for these kind of bills, these particular bills in the future.

That would certainly deal with some of these concerns. I think Mr Eddy is correct that municipalities have gone on for too many years where they have been pretty well under the thumb of the senior, provincial government. It just didn't happen. This, the Sewell report, is really giving the municipalities more authority in the hands of the local people, in planning boards and things of that nature, who know what is happening in their community. That is very important and I hope we'll get on with that quickly.

I don't know why there were no representatives here from the Ministry of Ag and Food. I don't disagree with Mr Eddy on his remarks, but I think we should have them really address this issue, and if there's an amendment necessary, they should be the ones who come forward with it.

Mr Fletcher: I was just wondering if a deferral would cause any undue hardship to Glanbrook or the municipality.

1100

Ms Smith: As far as delay and as far as being in this process for over a year now and working through the process in getting the legislation that is before you passed are concerned, I think it would be very unfortunate if this matter was delayed further beyond today, especially given the fact that the Ministry of Agriculture and Food could have come forward today with an amendment. They are consulted just like the other ministries within the provincial government, and if they would like to come forward with an amendment, this is their opportunity to do so. They have chosen not to put an amendment before this committee. Given that and given that the process has been followed to get to this point today, it would be very unfortunate if this matter was not dealt with today.

I agree with Mr Hayes's comments that the Sewell report foresees legislation for all the municipalities in Ontario, legislation that is before you today. Given that

foreshadowing and given the fact that the ministry's concerns should have been dealt with today if they were real concerns that they wanted to bring to your attention, I would strongly urge the members to deal with the bill that is before them and to not put it off any longer.

Mr Fletcher: One of the reasons I asked that question is because the deferral could possibly go as late as March or April. I mean, we are in the last few weeks of our session right now.

Mr Eddy: Unless we extend the sittings.

Mr Fletcher: Even if we extend the sittings, there is a possibility that this will not sit next week. But the one thing I was saying was that the deferral could be as late as March, April, May. It all depends on when the private members' stuff comes back. I'm not really in favour of a deferral at all. I think we should just move ahead with this and vote on it. I agree with what Mr Eddy said as far as the Ministry of Ag and Food is concerned. They should have been here if they had concerns.

The Chair: There is a possibility, depending on if we're sitting next week, beyond Tuesday, that this would be the only item on the agenda next Wednesday. Inasmuch as this would be ready, in all likelihood it would probably be the first thing in March when we have it. So then I would think that it would not end up going on necessarily too, too long, if there is a deferral, but that's obviously up to the members to decide.

Mr Leo Jordan (Lanark-Renfrew): I don't see any urgency at all with this legislation. In fact, I fail to see the need of it. I know in our own township these problems are covered under the subdivision agreements and the property standards bylaw. To say that there's some urgency here, I don't understand that at all. The developers in my area are frustrated to death now with regulations and I don't think it's more regulation we need. I think it's more jobs we need and more freedom to develop. I could not see myself supporting this as a piece of legislation that's urgent.

Mr Mills: I'd like to say once again that when the parliamentary assistant says that the Ministry of Agriculture has some concerns, it's very difficult for me to conjure up in my mind what the concerns are and the degree of those concerns and how important they are that we go ahead or not go ahead.

Having had some experience in the municipal field, I can have a great deal of empathy with what the solicitor and the township of Glanbrook are telling us, but my fairness in this matter suggests to me that in respect to the Ministry of Agriculture we should give them an opportunity to let us as a committee understand their concerns before we make that decision. My hope is that—and also in some degree of urgency I see for the township of Glanbrook—we could accommodate and get this decision before us next Wednesday morning so that we could go ahead and make a decision then, because it's my understanding, barring a miracle, that we will be here next Wednesday, contrary to the cutoff date.

I'd just like to know from the clerk of the committee if that would be possible, because I think we should know that and the people at Glanbrook should know that,

that we could deal with this next Wednesday in an expedient fashion rather than have it hanging over their head till March.

The Chair: The clerk and I had conferred while members were speaking and we did determine that if in fact we are sitting next week and, on behalf of the committee, if it is deferred, this would in all likelihood be the only item up for next Wednesday and we could deal with it in an expeditious manner.

Mr Mills: Okay. Good. Having heard that—thank you, Madam Chair—I will support a deferment.

The Chair: But that is only if the House is sitting beyond Tuesday.

Mr Mills: Well, we'll be here.

The Chair: Mr Perruzza, you have a question, and then Mr Eddy.

Mr Anthony Perruzza (Downsview): Well, it wasn't a question that I was after. I was just going to ask for a minute so that we could caucus, but I think that Mr Mills has cleared it up for me. If this group wants the one minute, I would request that the Chair permit that before we make a decision on it.

The Chair: Thank you, Mr Perruzza. Mr Eddy?

Mr Eddy: I just want to point out that my concern is not so much with OMAF, because OMAF has gotten notice of all the previous bills that have come from municipalities and has had ample opportunity to make representations to this committee and indeed has had the opportunity to make a presentation to this committee. If they had a concern, they damn well should have been here to do it, or they're not doing their job. Now, that's harsh, but that's the way it is.

My concern is more the local scene. If the Christian Farmers association wants a bit more time to look at this and come in with a comment, if the federation of agriculture or indeed the farmers of Glanbrook just as a group want to discuss it and make a presentation or a comment on it, then that's what I want to allow for. The local scene is what I'm more concerned about, realizing that the township is in a difficult position because it is beside the city of Hamilton and there is probably at times a tremendous amount of fill available, probably free, and where does it go? You know, it's agricultural land that it goes on. So I see it being a plus for agriculture as well as a restriction, but I think that's up to probably the farmers and the farm organizations to say.

Mr Jordan: More regulations.

Mr Eddy: Yes, it is true, but as we become a more complex—

Interjections.

The Chair: Order, please.

Mr Eddy: It's all right. I can talk over anybody. As it becomes a more complex society and more crowded, it's necessary to have more rules.

The other point on that is that the rule was intended, in my belief as a former municipal official, to be in the Municipal Act in the first place, which probably isn't the best place for it anyway. I have to agree with that.

Interjection.

Mr Eddy: Yes. In view of the shortness of time, I will agree with the majority.

Interjections.

The Chair: Thank you, and I note that Mr Veri would like to make a comment at this point. Mr Eddy and a number of other of our members have had a few years at municipal government, so they have a way of making their views known. So my apologies if at times we seem a bit disorderly. Please, Mr Jordan, at this point let's allow the deputant to make a comment. Mr Veri.

Mr Veri: Thank you, Madam Chairman. I wish to address a couple of things raised by various speakers: Mr Pat Hayes, Mr Eddy and Mr Jordan.

Mr Hayes, you're correct. The Farm Practices Protection Act does allow farmers to do certain things, but if you read the act, and I've read it and I've probably memorized it, everything is subject to local bylaws of the municipality. So if there's a bylaw in there, whether a farmer—it's a given right; he's got to respect the bylaw. I've been through two OMBs and two comprehensive bylaws and boy, oh, boy, a lot of things get through and people don't even realize it.

Mr Eddy, you have mentioned, why is not the department of agriculture here and why is—

Mr Eddy: Please don't defend them.

Mr Veri: I can tell you honestly, they were not on my side at the beginning because they didn't realize what was happening in these comprehensive bylaws. When they got informed, they got on the so-called bandwagon, but they also have a staffing problem. Cash flow is very tight in all departments, including the department of agriculture.

1110

On the third issue, the Christian Farmers organization would happily have been here today if I had only been able to give them a little more notice. I only got the letter yesterday. I opened it yesterday. I was lucky to have my solicitor here today. That's all. I have the letter. I have it here in presence. I can show any member of this committee. It's unfortunate, but I do feel that I wasn't given enough time.

Mr Eddy: I agree with you.

Mr Veri: The OFA had a meeting last night and this matter was talked about and they gave me the authority to be here and say the same thing.

Mr Jordan, I have to agree with you. I'm pro business. I'm an entrepreneur, a farmer entrepreneur. I'm not against regulations, but I think you're correct: We've got to watch regulations because I don't think we have the manpower to enforce half of them any more.

Summing it up, Madam Chairman, I would request that this matter be deferred. I just—

Interjection.

The Chair: Mr Perruzza, please, order. Allow the deputant to speak. I think he has every right to be heard.

Mr Veri: Thank you. I know it's an emotional matter and I can live with it; I'm Italian. However—

The Chair: You can talk to him outside. Talk to him outside. Okay?

Mr Veri: Madam Chairman, I request that this committee consider and defer this matter, hopefully beyond next week, because to do justice to this matter and to get the department of agriculture to get into this and do some research is impossible; no one can do it in a week. I can just tell you it's almost physically impossible to do service to this matter, because this matter isn't just this matter. It's all the bills that are coming before you. I know Stoney Creek is introducing a similar bill. I haven't been notified when that's coming up. It's another private member's bill on filling. I think this is monkey see, monkey do, and to be consistent, just pass it whether it's good legislation or not. So, please, I ask everyone to defer this matter.

The Chair: Thank you, Mr Veri. I just wanted to, on behalf of the clerk and the committee, say there were several attempts to contact you. One of the problems in getting information to you was that—

Interjection.

The Chair: Maybe rather than speaking through me, we'll allow the clerk to make her explanation as to the problems of getting this out to you.

Clerk of the Committee (Ms Tonia Grannum): I think one of the problems was the fact that the bill was introduced and then it was ready for the committee for the next week, so we didn't have much lead time to contact you. We tried to contact you on the phone. The only other option was to mail it, so we tried our best.

Mr Veri: I'm sure you did.

The Chair: We have two more questioners and then I will in fact pose the question if we are ready to vote. Mr Mills.

Mr Mills: I don't want to belay this, but this concern of the agriculture bothers me. It seems to me that contrary to what the solicitor opposite there has said, and I forget the gentleman's name, that it takes time and time and time. I would like to know if we can get some comment from the Ministry of Agriculture. They're not a stone's throw away from this building. What I would like to do is move on to Bill Pr39, set this down for a minute and have some attempts to speak to someone in Agriculture to give us what this concern is. I am not about to agree to let this go on for an unlimited amount of time, and I would like to, as I said, deal with this no later than next Wednesday, if not sooner.

I would think that we could get some input that would allow us to make some rational decision, not based on hearings or whatever but from some direct one-on-one discussion with someone from the Ministry of Agriculture.

The Chair: Mr Hayes would like to offer some explanation at this point.

Mr Hayes: I understand where Mr Mills is coming from, but it's a long stone's throw away because the people who comment on this particular type of bill are in Guelph, so we couldn't get them here that quick.

Mr Mills: Oh, I see. I thought they were on Bay Street.

Mr Hayes: I think, in all fairness, Madam Chair, to

the Ministry of Ag and Food, I don't disagree with anyone here that they should have had representation, whether it be in writing or verbally, right here. But they also did make recommendations dealing with the draining act. We got that far with them, and that's one of those amendments that are in front of the members.

Mr Mills: Here.

Mr Hayes: That's all I have to say, Madam Chair.

The Chair: Mr Morrow, I think actually for your question, if you're still interested in making any comments, you may have to shift slightly to get to a microphone.

Mr Morrow: I'll move over here. Considering all the concerns that have come forward this morning, I would agree with the deputant and ask that it be deferred.

The Chair: Thank you. Mr Eddy.

Mr Eddy: Yes, it is important. Well, I try to have important things to say at all times, but—

The Chair: Thank you, Mr Eddy.

Mr Eddy: Because I am in favour of giving it more time for local input—I think that it's awfully important, and that you err that way—the question I had is, would it not be possible and good to proceed with the amendments so that the amendments are passed by us and in the bill, and then anybody looking at the bill would see the bill as amended rather than the way it stands? Because they won't know about these proposed amendments. They're all important, of course, but I think the one that I've just happened to look at, the third one, is an amendment following clause (e) in section 3 and brings in the Drainage Act, which is so important.

It's so that whoever looks at this would have the amendments. Maybe just attaching them is good enough, but could I have your view on that, Madam Chair?

The Chair: There is at least a logistical problem. The amendments would not be reprinted in the bill until actually the bill was passed.

What would be appropriate, I think, for anybody who was interested in receiving this package: Obviously the clerk can make available what we have in hand, which is the Pr bill, the compendium, the proposed amendments and, as well, if anyone is interested, the discussions on this in the Hansard documents relating to this committee, so that they would have a complete look at what has been discussed. But until it's passed, you won't get another reprinting.

That would mean that there would be costs incurred for everybody. So the bill in effect would not be printed with amendments until it's reported, and it has to be passed to be reported. So we do have a concern there.

Mr Perruzza, you had an additional question.

Mr Perruzza: Madam Chair, what I'd like to do, and in the hope of trying to move us along, is propose a motion that the bill be deferred to the earliest possible meeting of the committee and that the clerk be instructed to advise or communicate to the Ministry of Agriculture and Food, the federation of agriculture, the Christian heritage farmers—

Mr Veri: Christian Farmers Federation of Ontario.

The Chair: Just Christian Farmers.

Interjections.

Mr Perruzza: —Christian Farmers Federation of Ontario that we're in fact considering this, and that if they'd like to make representations to the bill, they be advised to do so, and when all of that happens, we bring it back and deal with it then. So that's my motion, Madam Chair.

The Chair: Thank you. Members have heard Mr Perruzza's motion. Does anyone need Mr Perruzza to repeat his motion?

Mr Fletcher: Yes.

The Chair: Would you please read your motion again?

Mr Perruzza: I move that this bill be deferred to the earliest possible meeting of the committee wherein the Ministry of Agriculture and Food have been advised through the clerk's department to make representation to the bill, the federation of agriculture has been advised and the Christian heritage—

The Chair: No, just Christian Farmers.

Mr Perruzza: —Christian Farmers Federation have been advised in same.

That's my motion, Madam Chair, and then at that point it be brought back and we deal with it, so to allay Mr Eddy's concern and some of the concerns of the ministry and some of the local members' concerns as well.

The Chair: Is there any discussion on the motion by Mr Perruzza? Mr Hayes and then Mr O'Neill.

Mr Hayes: Thank you, Madam Chair. I don't really feel that it's necessary that we have to bring the farm organizations next week to this committee. I think Mr Veri—or Beri? I'm sorry.

The Chair: Mr Veri.

Mr Veri: "Veri" easy to remember.

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Mr Hayes: If we get the amendment from the Ministry of Agriculture and Food, I think that should meet the concerns of the members of this committee and, I think, of both parties here. I don't want to speak on your behalf, but if Mr Veri chose to go to the farm organizations and bring a letter of support, I don't have any problem with that. But I don't think it's necessary, because we're talking about expediting this thing.

Mr Perruzza: On a point of clarification, Madam Chair, about my motion: I think Mr Hayes misunderstood it. You simply communicate to them, through the clerk of the committee, that we're dealing with it, and then it's their choice whether they want to come and make representation. That's just so they don't come back later with a nasty letter and say, "Gee, you guys dealt with this and you never gave us an opportunity to respond to it in any way." Leave them that option.

The Chair: Thank you, Mr Perruzza. In fact, anyone interested in any of these private bills is able to come forward and make representation, as Mr Veri and Mr Crossingham have done, so that would be very appropriate to do.

Mr Hugh O'Neil (Quinte): I think my question has been answered. The only other point I would make is, will the Legislature be sitting next Wednesday?

The Chair: The motion basically says "at the earliest time," so if we sit in March, this would be the first order of business. If we sit next week, it would be the first order of business. It depends on when we will be sitting. There is always the likelihood that we will be sitting until December 16. Mr Morrow and then Ms Smith.

Mr Morrow: It is important that this be deferred, because it's been mentioned that there's going to be a private member's bill coming from the city of Stoney Creek. That's true. The private member's bill should come forward in March or April, and it's very similar. If we can resolve the problem in this bill with the township of Glanbrook, we can resolve the next bill, which is also in my riding of Wentworth East.

Ms Smith: I'd like to inquire of the Chair when it will be known whether the committee will be sitting next Wednesday.

The Chair: I usually refer to my name, that if I had a "Christel" ball, I would be well ahead of the game. But I do not have that crystal ball. The time frames for our political lives change moment by moment. I cannot, in any firm way, give you any assurance that we will be sitting. There is a very clear possibility that we could be here till December 16. At this point, the 14th has been discussed with seriousness by all House leaders, but that does not mean we could not see an extension by a couple of days.

Ms Smith: The difficulty I foresee is in giving notice to these parties. As Mr Perruzza has suggested, if it's not known that the House is sitting on Wednesday until Tuesday, how effective would that notice be?

The Chair: The way the motion is in fact proposed, the clerk would, hopefully, as we conclude today, inform those parties that this is coming forward, either as soon as next week or possibly in March, and that they should be prepared for either eventuality and should, in that case, inform themselves and be prepared to be here.

Ms Smith: Thank you.

The Chair: I think we are done with questioners.

Mr O'Neil: Excuse me. If there's some real necessity on this thing, there's always the chance, if we weren't sitting on Wednesday, that we could meet Tuesday. No?

The Chair: No. You'd need permission from the House leaders to do so. In light of the fact that there are already several other committees sitting on that same day, and with House time being what it is, I would suspect that's going to be difficult to fit into a very full schedule. But you always are free to discuss that with your own House leader to see how that evolves during the sessions the House leaders hold.

Mr O'Neil: I wonder if I could ask the parliamentary assistant whether he might have any other suggestion.

Mr Hayes: No, I don't.

The Chair: We always like a blunt and honest response.

I will put forward the question of whether members are

prepared to vote on Mr Perruzza's motion, which is the motion to defer to the earliest next meeting of this committee, which would conceivably be as soon as next week or as early in March as possible. All those in favour of Mr Perruzza's motion, please show. Anyone against? The motion is carried to defer.

Mr Crossingham: Thank you very much, Madam Chair.

The Chair: Thank you to the deputants. We will attempt to keep you as informed as possible about what is happening, but don't hesitate to give our respective offices a call just to keep up to date on what is transpiring.

TOWNSHIP OF DYSART ACT, 1993

Consideration of Bill Pr39, An Act respecting the United Townships of Dysart, Bruton, Clyde, Dudley, Harcourt, Eyre, Guilford, Harburn and Havelock.

The Chair: I call Mr Waters and the deputants relating to Bill Pr39, An Act respecting the United Townships of Dysart, Bruton, Clyde, Dudley, Harcourt, Eyre, Guildford, Harburn and Havelock. Thankfully, I don't have to rhyme those off in my sleep.

Mr Waters, would you be so kind as to introduce your applicants, please.

Mr Daniel Waters (Muskoka-Georgian Bay): I have with me today Mr Stephen Woodcock, who is the solicitor for the combined townships; that is probably the easiest way to refer to them as we go through the proceedings today.

The bill is fairly straightforward. It is to allow the township to put the costs of improvements on Hodgson Drive and Moon Road in the township of Dysart to be assessed against the lots benefiting from the improvement and with that, I will turn it over for discussion. I would relinquish the mike to Mr Stephen Woodcock, the solicitor.

Mr Stephen Woodcock: I would just indicate that the proposed legislation is essentially enabling legislation which would allow a municipality to pass a local improvement type of bylaw. There is of course in existence the Local Improvement Act, and you will see from the text of the proposed legislation that the proposal for the cost-sharing of the improvements to the two roads, being Moon Road and Hodgson Drive, would essentially be shared by the benefitting land owners on an equal basis as opposed to a frontage basis. There are some 26 lots which front upon these two respective roadways.

This application by the township was made at the behest of the land owners which are both inside and outside of this subdivision. The subdivision itself contains some 25 lots which abut the roads. There are five lots outside of the plan of subdivision itself which do abut upon the roads that were created by virtue of the subdivision.

The subdivision was registered in 1977, and the difficulty the residents are faced with, as well as the municipality, is that during the development of the subdivision, the developer went bankrupt and the roads were not completed to acceptable standards for acceptance by the municipality.

Under the plan of subdivision, the agreement that was entered into, there was a clause in there that the municipality would not grant building permits in the event that there was default by the developer in completing the subdivision.

I understand that four permits were granted for people to build homes within the subdivision prior to the default occurring, and the remainder of the lots in the subdivision are vacant and cannot be built upon because permits will not be granted to develop houses on a road which is substandard and not acceptable for heavy traffic. Therefore, the landowners quite legitimately want the road completed and improved and accepted by the municipality to enable them to build upon their land.

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As I indicated to you, there are five lots outside of the plan of subdivision, and those lots are treated somewhat differently. They are not covered by the subdivision agreement. Those lots are entitled to building permits and can be built upon without any apparent limitation.

One of the abutting land owners who owns three lots outside the subdivision are a Mr and Mrs Sinclair. I can indicate to the committee that Mr Sinclair is present. I would like to make some brief comments upon what I would anticipate his objections are to this proposed legislation.

It's obvious that the main consideration in this case is cost, cost to each lot owner. I would just indicate that the only deviation from the existing legislation is how those costs are to be shared: As opposed to frontage, it would be on an equal basis.

The same protection is enshrined in the proposed legislation for those people to object to the bylaw. If in fact a majority of the land owners object to it, representing more than 50% of the value of the abutting properties, then of course the municipality cannot pass the proposed bylaw in question. So there is that protection which is carried forth from the Local Improvement Act.

It is my understanding that Mr Sinclair's point, and perhaps a legitimate point, is that he would be entitled to permits for his three lots—rather, the two that are vacant—and that he can get those permits without limitation. In other words, he is not bound by the subdivision agreement and therefore there is a cost being imposed, if you will, on he and the other land owners outside the subdivision for improvement to the roads for the benefit of the land owners which are within the plan of subdivision. I suppose that's a legitimate point.

I would only indicate, however, that if this mechanism isn't employed, then there is the existing mechanism under the Local Improvement Act to do it on a frontage basis. It was deemed by the vast majority of the people, both inside and outside the plan of subdivision, that given the nature of the road and the area in question, it was more equitable to have the costs shared on an equal basis as opposed to a frontage basis.

Subject to any questions from the committee, that completes my submission.

The Chair: As you state that Mr Sinclair has declared himself an interested party, if Mr Sinclair is present—Mr

Sinclair, would you like to join us here at the front and make your representation with regard to the bill that is before.

Mr O'Neil: Madam Chair, I notice there are a couple of other letters from people by the name of Clarkson. Are there any other people here besides—

The Chair: No. The clerk has canvassed the group, and the rest of the people present at the moment are ministry staff who are going to be here making a report on regulations; there are some Municipal Affairs people.

But I will definitely ask the question: If there is anyone else in the audience who would like to come forward on this particular matter and state their concerns, please come forward now.

Mr Sinclair is the only one who has come forward at this point. Mr Sinclair, please continue.

Mr John Sinclair: With regard to the Clarksons, they have since sold their property. I don't know what the situation is from there.

I was advised a week ago today by telephone of this particular meeting, and a letter arrived yesterday. It seems to be a common situation today.

However, my wife and I are the joint tenants of the properties shown as parts 1, 2, and 3 of plan 19R-1584. Those are listed in category B of schedule B of the proposed bill.

As Mr Woodcock stated, we are outside of the subdivision in question. We are between the subdivision and the main highway. With regard to that situation, I have several points and I have a copy here for the Chair when I'm finished, if you wish. However, I have several points that I wish to object, first of all.

The first point is that our deed clearly states that we have right of way on this road on the easterly limits of our properties for a distance of 66 feet from plan 567, which is the registered plan in question, southeasterly to Highway 121. There's nothing on our deed indicating the present or future responsibility for the upgrading or improvement of this road. In fact, the reason we purchased this property was, in part, for its privacy.

The second point: The proposed improvements to the roads, Hodgson Drive and Moon Road, within plan 567 will be extensive while the remainder of the road from plan 567 to Highway 121, which fronts our property, will be very minimal, if any. Yet under this proposal we would have to pay the same as those a half a mile up the road in the subdivision beyond us.

I might also note here that the road known as Moon Road has had nothing done with it since 1977—there are trees growing in the middle of it—and we have to pay for a situation such as that, fronting over 2,000 feet of road.

Item 4: No reference is made in the proposed bill for improvements to the entrance of this road from Highway 121. The improvements to this entrance will be extensive and thus expensive. Again, who pays for this improvement? Believe me, it will be an extensive improvement, because the entrance is on the crest of a hill. Under the Ministry of Transportation, they won't allow just a straight road on to this. There has to be an easement,

perhaps even purchase of property, which has never been addressed in this proposal.

My comment here is that in subsection 2(3) of the proposal all of these property owners listed will be subject to any of the greater cost beyond the figure indicated of \$83,200. I would suggest that perhaps the entrance alone might be in excess of that figure, and there's been no suggestion of that whatsoever.

I missed item 3 on my proposal. I'll go back to that. It's something that Mr Woodcock alluded to a bit. On a per-lot basis, someone owning a lot with 200 feet of frontage on the proposed road to be improved pays the same as someone with over 1,000 feet—for instance, lot number 14—or with over 3,400 feet, which is block A. This is hardly equitable, in my opinion.

Item 5: The original estimate for the improvements of the road is stale. I was approached two days after I moved in in July 1992 with a petition showing a figure which, by the way, is not the \$83,200 shown here, and since then the province has implemented provincial sales tax on sand and gravel. That is not included in this figure.

We have been told by local residents that the municipality maintained this road between Highway 121 and plan 567 from time to time in the past. If this was the case—which I am not absolutely positive, and the township denies it to me—then why must we pay to have it further improved? This is the section, again, that fronts our property.

With regard to the specific proposed bill itself, my wife and I have the following comments and objections to make on some of the various sections and subsections, first of all subsections 1(1) and (2). There is no mention of improvements to the road adjacent to those lots listed in category B of schedule B of the proposal—that's the road in front of our property—but still the cost is assessed to those lots without any improvement indicated. Also, there is no reference made to the upgrading and improvement of the entrance off Highway 121, no reference to the cost of this and to whom the cost of this is to be assessed.

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Subsection 2(1) of the proposal: The assessment on a per-lot basis is unacceptable to us. Some lots have 200 feet of frontage on the proposed road improvement while others have in excess of 1,000 feet; one is over 3,400 feet. The road fronting some of the lots is completely overgrown with trees and brush and so on. That's the Moon Road.

Regarding subsection 2(3), the figure shown of \$83,200 varies slightly from the original figure that was shown to us on the original request. We have yet to see or hear any of the following.

Does this figure originate from a firm written tender from a contractor or road builder? We don't know who it's from. We don't know whether it was put out to tender.

Does the contract price include the upgrading of the entrance off Highway 121? No indication whatsoever.

Does the price include the improvement of the road

adjacent to the lots in category B of schedule B of the proposed bill? Those are our lots.

Is there in fact a binding contract of any kind?

In the proposal, there is no section 3 indicated. Is this a missing section? Is there something that we haven't been told? Is it written in or is it just forgotten?

The same with section 4: What does it say?

Our opinion, my wife's and mine as joint tenants on the lots that I indicated, is that we feel it's been misrepresented to us. This particular bill is incomplete and ill-conceived.

I have some other comments. I'll try not to take too much more of your time.

We are amazed that the municipality, in its wisdom, did not upgrade the roads years ago so that it could have obtained full taxes on all the lots concerned. This of course would have promoted the development of the entire plan 567. The municipality would then reap full taxes on fully developed land instead of half taxes on developmentally frozen vacant lots.

Further, it is well within the mandate of the municipality to place a lot levy on all of the undeveloped lots, release the building freeze and obtain the funds to upgrade the road without hammering the rest of the taxpayers.

In conclusion, we do not feel we should be subjected to these proposed excessive assessments that should have been borne by the developer of plan 567 and enforced by the township of Dysart. Both parties did not fulfil their obligations, in our opinion, and both should be accountable. Since the developer is no longer touchable, then it rests solely on the shoulders of the municipality and should not be dumped on the innocent parties in the area.

We feel very, very strongly about this situation. We don't think it was presented to us properly. There are just too many vagaries in here. It's vague, it's incomplete and we don't know what we're paying for. They tell us \$83,200, but if it goes higher than that it's going to be assessed to us. How much higher? The road superintendent, I understand, is the one who's going to be overseeing it. We have no say in it at all.

The road in front of our property, according to this, is not going to be touched at all. Yet we have to pay for another mile and a half of road beyond us, part of which is all grown over with trees and brush and whatever. Whatever culverts were put in aren't doing the job at all and they're all rusted out. I don't know why we have to pay for it. That's all.

The Chair: Thank you, Mr Sinclair. Mr Hayes, do you have some comments to make on behalf of Municipal Affairs?

Mr Eddy: You get the first crack.

The Chair: No one else put up their hand, so what can I say?

Mr Hayes: Unfortunately, I don't have a copy of the presentation that was made.

The Chair: Neither do I.

Mr Hayes: The Ministry of Municipal Affairs, just to tell you right up front, is not objecting to this particular

bylaw. But in section 4 I think there's something that the members should look at here, (1), (2) and (3). It does deal with—

Mr Sinclair: We don't have (3).

Mr Hayes: Oh, you don't have that.

The Chair: We'll get you a copy.

Mr Hayes: I'm just wondering, Mr Sinclair, if this may meet some of your concerns.

The Chair: Please continue.

Mr Hayes: If the Chair will bear with me, I'll read it. Subsection 4(1): "Before passing a bylaw"—and we're talking about the municipality here—"under section 1, the council of the corporation shall notify the owners of the lots to be specially assessed of its intention to pass the bylaw."

So they have to notify the owners prior to passing this particular bylaw. And then, (2) "The notice shall be served by mailing it to each owner at the address shown in the last revised assessment roll of the municipality."

I think the other part here that's important is (3), the passing of the bylaw, "Unless within one month after the mailing of the notice, a majority of the owners representing at least one-half of the value of the lots that are to be specially assessed petition the council not to pass the bylaw, the council may pass the bylaw," one or the other. My understanding, Mr Sinclair, is that the people will be notified prior to the corporation passing the bylaw or not passing the bylaw, so I just wanted to make that point.

Mr Sinclair: I have a map here of the subdivision in question. May I open it?

The Chair: Surely yes, you may.

Mr Sinclair: It'll just give you some perception of what's taking place. It's rather large.

The Chair: I don't know if you can put it up over here. There are some clips up here on the wall. You may have to use Mr Cooper's microphone to make any comments.

Mr Eddy: Can I ask a question?

The Chair: Mr Jordan actually was first.

Mr Jordan: I just have a question of clarification really. Is this piece of road considered a township road or is it one of these township roads where the township is not taking any responsibility for it because it hasn't been maintained over a number of years?

The Chair: Mr Woodcock, if you'd like to move forward please, and speak into the microphone.

Mr Woodcock: On the plan of subdivision it was dedicated as a public road, but within the agreement it was agreed to by the developer that it would not be assumed by the municipality until it was brought up to a certain standard, an MTO-regulated standard. That was not done and it has not been assumed for maintenance by the municipality.

Mr Jordan: Well, then, why—

The Chair: Mr Eddy may have a supplementary here, but Mr Jordan, please continue.

Mr Jordan: In follow-up to your statement relative to that question, then why is the township getting involved?

Why is it not up to the property owners to bring the road up to standard and then turn it over to the township?

Mr Woodcock: That's in essence what is happening here. The impetus for this proposed legislation was the land owners. They came to council with a petition signed by most of the people within the plan of subdivision. They said to council, "We will pay for the upgrading of this road and the improvement of the road, if you will accept it." That is the basis upon which the council passed the resolution to ask for this piece of legislation. The reason that the Local Improvement Act was not used was that the residents desired, in their collective wisdom, to have the costs shared on an equal basis as opposed to a frontage basis, which is what is provided for under the Local Improvement Act.

Mr Eddy: A somewhat complicated matter. Who was supposed to upgrade the road? The developer?

Mr Woodcock: Yes.

Mr Eddy: Where is he?

Mr Woodcock: He's bankrupt and disappeared.

Mr Eddy: It's unfortunate the solicitor for the previous hearing was not present to hear that all things can be solved under the Planning Act. Anyway, are you telling us then that under the provisions of the Local Improvement Act it has to be on a frontage basis? You don't have any alternative?

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Mr Woodcock: That's correct.

Mr Eddy: And there's never been anything allowed under there that you can sit down and negotiate something. It's got to be under that act.

Mr Woodcock: That's correct.

The Chair: Mr Sinclair, you have put up your map. You are going to have to speak into the mike to be on record. It might be a little hard for members to see, but could you possibly point out some of the concerns you have had with regard to the bill.

Mr Sinclair: Does this register now?

Our particular properties, my wife's and mine, are shown outlined by the yellow. The road in question that passes in front of our properties is to the right-hand side of the vertical yellow line. Highway 121 is to the south or the bottom of the map.

Moon Road, which I referred to as being grown over, actually is in error; it should've been Hodgson Road. The point indicated on the map as Hodgson Road from this point to this point is fully overgrown, full of trees. You can get a snowmobile down it if you're lucky. In fact, one of the local entrepreneurs has attached on to it as a cross-country ski trail.

There are no houses on these lots at all, with the exception of the corner. The only other house in the subdivision itself is one here which used to be the Clarksons', as somebody mentioned, who weren't here. There's a house further up. There are two houses up there. There's one at the end and, as I mentioned, one on the corner here. I might add that this lot is over 1,000-foot frontage on that road and uphill to boot, and it's a tractor trail.

My objection really is, why should I have to pay for all of this work that's going to be done in here? Mind you, we're going to have a good road, supposedly, in front of our properties, but why should I be assessed for all of this that's going on in there? It's virtually an undeveloped subdivision. No work's been done on it, with the exception of a couple of local people with a drag-line behind their truck, and we pay one of the local people to snowplow it in the wintertime.

I was one of the signators on the original petition but, as I said, he approached me the second day and we were still living out of boxes, that this was a good thing, this was a firm cost and so on: "Don't worry about it." I know he meant well. I'm not criticizing the gentleman at all. He's the gentleman who lives on the very farthest end of the road and it's to his benefit to have it.

My wife and I personally would not object if it were done on an equitable basis, on a per-foot frontage. But when we do it on a lot basis, some of those lots are a 1,000-foot frontage on that road; some of them have no road at all and have to pay to have it built.

The other big item, the big, big question is, who pays for the improvement of the entrance off Highway 121? It's a dangerous entrance. It's on the brow of a hill. Vast improvements are going to have to be done to that. Who pays for it? Is that the hidden greater cost that all we lot owners are going to be assessed? Too many questions, and not enough fact.

The Chair: A final comment, Mr Woodcock, before I put the question.

Mr Woodcock: I would indicate that Mr Sinclair's concern concerning the costs were considered by the municipality, and I might indicate that the cost figures that were arrived at were obtained by the land owners and presented to the municipality.

There was some concern about the accuracy of those costs, and that's why we have proposed a section to allow for greater costs in the event that costs exceed the \$83,200 figure. That again, however, would be when the contract, if this legislation is passed, is ultimately let. Certainly the residents would have an opportunity to review that and object to the cost if they saw fit to do so under section 4 of the legislation, so there is and will be a continuing right for them to object.

As Mr Sinclair has pointed out, there certainly is a benefit accruing to him by virtue of this proposed upgrading. I take his point. I think his point is much the same as anyone else's would be: "I'm the first lot. Why should I pay for someone who's down at the end of the subdivision?" I suppose that's a legitimate point.

I would point out, however, that under the existing statutory framework of the Local Improvement Act, any property owner is faced with the same circumstance and the same set of considerations. This legislation doesn't deviate in that respect from what he would otherwise be faced with under the Local Improvement Act. The difference, as he has pointed out, is the method of sharing that cost component.

The Chair: First Mr Eddy, and then Mr Hansen.

Mr Eddy: I'm concerned about the cost of the

project. It's unfortunate that the developer was allowed to escape, if I can use that term. If the township proceeds with this work, would it attract the MTO road subsidy? Is that a possibility or not? Has the municipality explored that?

Mr Woodcock: I understand that it would not be possible, given that it's a redevelopment of the road and the subsidies are considerably curtailed.

Mr Eddy: Is there any possibility that you would be able to have this as a project approved under the Jobs Ontario program or under—I guess not—the new infrastructure program that we understand is going to bring some money? Have you explored all possibility of attracting funds? Normally, when a road is built the property owners do not have to bear the full cost of it, taking any other situation in the municipality. I must say, most municipalities have a number of kilometres of unimproved road that are kind of bush trails; it's decided to upgrade it, improve it, make it useful, passable, and it proceeds out of the budget of the municipality, which attracts MTO subsidy, and of course it's done because of the property, and all the properties in the municipality pay towards it.

I know your circumstance is a little different, but is there any way at all that you can see that you could attract funds, so that the property owners who have been left holding the bag—it's not the municipality; it's really the property owners in this case who have been left holding the bag. Is there any help, or indeed would the municipality pay part of the cost in view of the fact that it's improving what should be a municipal road because it serves local ratepayers? Any possibility?

Mr Woodcock: I would indicate that right, wrong or indifferent, the council has taken the position that it would not contribute funds towards the road.

Mr Eddy: Not anything?

Mr Woodcock: That's my understanding of it.

Mr Eddy: But those people do pay towards upkeep of all other municipal roads in the municipalities.

Mr Woodcock: I don't disagree with that comment at

all. I'm just indicating what council has indicated.

The Chair: In the interest of time, as we are coming up to our deadline, Mr Hansen.

Mr Hansen: I understand that the comment you made was that the people at the end felt—Mr Sinclair? I didn't hear your quote that because you're at the very beginning of the road you shouldn't have to pay for the road beyond. It should be shared equally among all owners of lots and frontage, which is normally done with sidewalks, sewers, anything else that goes in. It's all equally shared throughout that subdivision.

That subdivision had never had complete approval by the municipality? It was never handed over, the roads? It was still, in a sense, a private subdivision?

Mr Woodcock: That's correct.

Mr Mills: I subscribe to fairness on the basis of footage, and I don't see why they should all be equal. If you've got more frontage you should pay more, and if you've got less you should pay less, so I'm not going to support this.

The Chair: I will put the question. Are members ready to vote?

Interjection: It depends.

The Chair: Well, you can either vote for or against, not to make it too obvious, unless a member wants to put forward another motion? No.

Shall sections 1 through 8 carry? No.

Shall the preamble carry? No.

Shall the title carry? No.

Shall the bill carry? No.

Shall schedules 1 and 2 carry? No.

Shall I report the bill to the House? No.

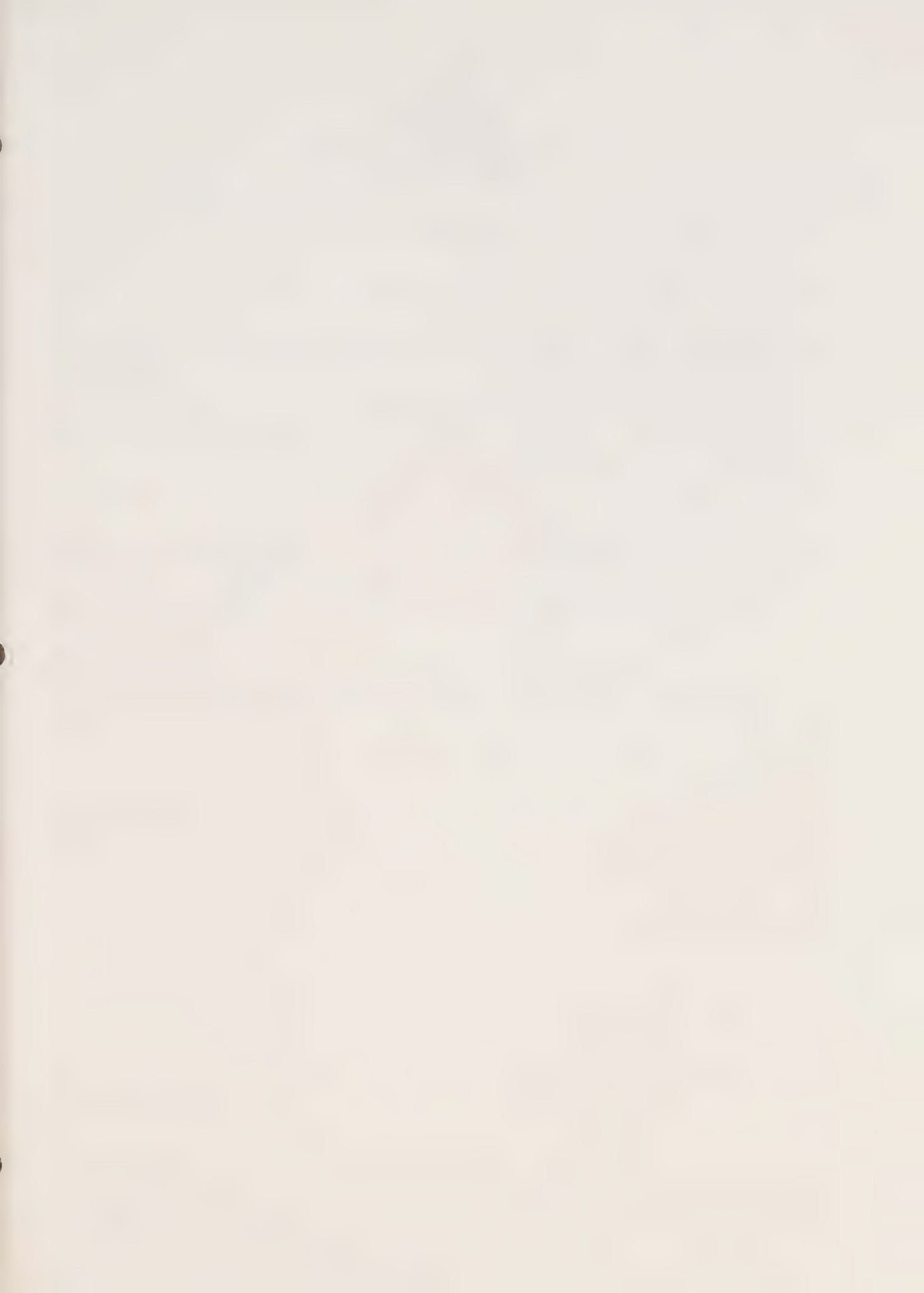
I'm sorry, Mr Woodcock.

Mr Woodcock: Thank you for your time.

Mr Sinclair: Thank you.

The Chair: Thank you, Mr Sinclair. Another interesting morning, and I thank the members for their time.

The committee adjourned at 1201.



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of Ontario**

Third Session, 35th Parliament

**Assemblée législative
de l'Ontario**

Troisième session, 35^e législature

**Official Report
of Debates
(Hansard)**

Wednesday 30 March 1994

**Standing committee on
regulations and private bills**

Chair: Christel Haeck
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**Journal
des débats
(Hansard)**

Mercredi 30 mars 1994

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
REGULATIONS AND PRIVATE BILLS

Wednesday 30 March

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS
ET DES PROJETS DE LOI PRIVÉS

Mercredi 30 mars

The committee met at 1005 in committee room 1.

TOWNSHIP OF GLANBROOK ACT, 1993

Consideration of Bill Pr63, An Act respecting the Township of Glanbrook.

The Chair (Ms Christel Haeck): Our first order of business is Bill Pr63, An Act respecting the Township of Glanbrook. The sponsor is Mr Morrow, and your applicant is Nancy Smith.

Mr Mark Morrow (Wentworth East): The bill is Bill Pr63, An Act respecting the Township of Glanbrook. I'm very pleased to have Nancy Smith, its lawyer, here with me.

Ms Nancy Smith: Members of the committee, you'll recall that I appeared before you on December 8 of last year and spoke to this bill. I don't plan to go through the submissions I made to you then. I'll just remind you that this is a bill on behalf of the township of Glanbrook to authorize it to pass bylaws to regulate the dumping of fill within the township of Glanbrook.

You'll recall that when we met last December, there were some concerns that our bill and any bylaws passed under that bill may interfere with normal agricultural practices within the township of Glanbrook, the township being predominantly a rural municipality at the present time.

Since the bill was presented to you, there has been an amendment proposed on behalf of the Ministry of Agriculture and Food that expressly deals with this concern that any bylaw passed pursuant to this bill not interfere with normal farm practices as defined under the Farm Practices Protection Act. You should have that amendment before you. I'm not sure of the procedure, but I believe somebody will be putting that amendment forth to be added to the bill as it's presently drafted.

I also would like to remind the committee members that similar legislation has been passed by this House on behalf of other municipalities within Ontario. The township of Glanbrook has perceived a potential problem within its municipality, dealing with the dumping of fill. This is the proactive response to that potential problem.

Subject to any questions you may have or any information you need from me, those are my submissions. I believe there are some objectors here this morning.

The Chair: Thank you, Ms Smith. I believe Mr Veri is here, who was here before us in December, and another gentleman, if he would please introduce himself for Hansard. Mr Veri, would you begin, as someone who has been with us before? I assume this is Mr Dombek.

Mr Carl Dombek: Carl Dombek. Actually, if I could

reverse the order, I'm representing Mr Veri on this, and I just wanted to make a couple of points.

The first point is that Mr Veri certainly supports the proposed amendment to add an exclusion for normal farm practices. As counsel for Glanbrook has stated, the area is a rural area. We are concerned that any bylaws that are passed not interfere with normal farm practices and would avoid duplication of other municipal bylaws in effect, such as obtaining building permits and so on. I could be wrong, and maybe counsel for Glanbrook could advise me, but I believe there wasn't any serious objection to that amendment being made. If that's the case, I think this committee should move the amendment and put it forward to the House.

The only other comment I'd make before Mr Veri has a couple of comments to make is that one of the concerns we have is the problem of duplication of efforts with this type of legislation. As you are aware in reading the legislation, my interpretation of it is that if a farmer wanted to put up another building such as a barn or some other outside building, he or she may be required to get permits not only under this legislation but under other building legislation such as building bylaws regarding building permits and so on.

We would like to avoid that kind of duplication, if at all possible. Certainly the farm community, which is quite regulated as it is—and I understand you may have representations from some of the farm organizations—would agree with that request.

Basically, those are the comments I have. Mr Veri has a few comments he would like to make, and I'd just turn it over to him.

Mr Victor Veri: Madam Chair and members of the committee, I haven't been trained in law or whatever, so I'm going to try to speak for a moment from a layman's point of view.

I agree with Carl that I support this amendment. That's basically what I instigated and that's why we're here a second time. I feel a lot more relieved with that amendment, as Mr Dombek explained to me how it would affect the rural community, the farmer who is to do something that would have been in contravention of the existing proposed private member's bill.

I just have some personal concerns, and I don't know how they all work out in the process of regulation and prohibition of this particular—and the processing of this act, if it is passed today. I managed to pick up yesterday a private member's bill being submitted before this committee in the near future from the city of Stoney

Creek. I only have one copy here. It has almost 80% plagiarized this private member's bill, so I realize this private member's bill will be a precedent-setting bill for Stoney Creek and any other municipality that may want to jump on the bandwagon and come before you and ask for the same status.

What worried me when reading the Stoney Creek private member's bill is a letter—the most recent date on this particular file is October 15, 1993—that says that basically the House is distributing this bill among the interested ministries for their comments. One thing I was very concerned about. Down the road I don't know what's going to happen to the farmer, but should this farmer ever be confronted with a situation that this bill has caused to happen, there's nothing in this bill to say what this municipality can do as far as fines go.

If I just read the Stoney Creek bill, they have it very clearly spelled out in their so-called private member's bill. If I may read it in full, it's:

"Offence

"A bylaw passed under subsection (1) may provide that a person who contravenes the bylaw is guilty of an offence and on conviction is liable to a fine of,

"(a) not more than \$10,000 for the first offence;

"(b) not more than \$25,000 for each subsequent offence."

That is very scary, a very high fine. I don't know what this bill is going to do when it comes to imposing fines on, say, a farmer who—we may have overlooked the legalities of all this today, and sure enough, a farmer may be confronted with such a horrendous fine. I'm worried about that. I'm worried about how this whole bill is going to be processed in the future. It always ends up in the courts somehow, and the courts are very expensive.

I brought a solicitor in last time, Mr John Crossingham. If I read his letter to me, he's recommending that I take the stance, even though I support this amendment, that this bill should not be processed. He gave good legal arguments. I have it on Hansard. He is a municipal lawyer who deals in municipal law, and he made some very good legal arguments.

Basically, he said, in summary, that all the things the municipalities want to do now with regard to their concerns can be handled in so many other ways given to them under the Municipal Act. Even though I'm in support of all this—and if you're determined to put this through today, I have to live with it—I say there are going to be problems arising from this bill. I know the bill that applies to Caledon is in the courts now. Somebody has taken that private member's bill to court in Caledon. There's just no end to it.

Really, if this is what we want to do, give powers to the municipality to regulate this problem, then please let's use all the diligence we have and the powers we have and, I might say, the bureaucracy and the legal departments from Municipal Affairs to really follow this one through and put it under the Municipal Act. Then that is good for everyone. Other than that, I don't know what else to say, but thank you very much.

The Chair: Thank you, Mr Veri. I do have the

obligation to ask if there are any further presenters who wish to make comments on this bill. Please come forward and introduce yourself for Hansard.

Mr Geri Kamenz: Good morning. My name is Geri Kamenz. I'm representing the Ontario Federation of Agriculture. As I look around the room, I don't think I have to launch into a great explanation of who we are, so I'll go directly to the bill.

The Chair: I just ask that the other gentleman also introduce himself so we're all aware of who everyone is.

Mr Elbert van Donkersgoed: I'm the research director for the Christian Farmers Federation of Ontario.

Mr Kamenz: Philosophically, the OFA supports the intent of this statute. We applaud its attempts to protect the environment from degradation through unrestricted dumping. However, notwithstanding this, we do have some concerns with the legislation the way it's presented. We're happy to see the amendment and hope that amendment is moved. It addresses some concerns we had in conversations with OMAF. We also agree that section 3 should be amended to expand exemptions to include drainage works constructed under either the farm Drainage Act or the Tile Drainage Act. We feel these amendments go a long way to addressing our concerns with the bill.

However, further to this, to avoid any misunderstanding or misinterpretation of the intent of the legislation, we would like to see included the definitions for "fill," "refuse" and "debris." Further, we'd like to see some sort of appeal process laid out in the legislation, and also we would like to see exemptions for farmers from the need for a permit for grading plans to dump fill in conjunction with construction of buildings or manure storage facilities etc. Further, we'd like to see exemptions to farmers filling low spots in their fields.

However, having said this, it seems to be another sort of hit-and-miss piece of legislation, and we would prefer to see amendments to the Municipal Act which would extend to every municipality the same power to regulate the dumping of fill.

Mr van Donkersgoed: I have nothing new to add to what you have already heard. I just want to confirm the concern of the farm community about the piecemeal approach that's being taken by a private member's bill from this township and a private member's bill from that township. It isn't possible for us, as the farm community, to adequately stay on top of that kind of development.

If it's the serious intention of the Legislature to grant powers to the municipalities to regulate dumping, in our view it's important that some sort of initiative be struck to do some good consultation in the countryside on a broad-range basis so that eventually we come to something we can live with in all corners of the province.

With the kind of piecemeal approach we're slowly building up to, it won't be long before there will be dozens of private members' bills on this subject needing to come forward. We feel there's an urgent need to step back and reflect and get something in place that we are comfortable with on our side and that the municipalities are comfortable with on their side. We're just very

uncomfortable with this circumstance and with being drawn into this. Our concern is, in a sense, not that we don't want to see something happen, but that we need a little different process in terms of getting adequate input from our side for the many townships across the province.

The Chair: I'd like to turn to the parliamentary assistant, Mr Hayes, who will make some responses to your remarks. I believe, Ms Smith, you've been taking some notes to respond to some of the queries as well. First, to Mr Hayes.

Mr Pat Hayes (Essex-Kent): First of all, on your comments about changing legislation, every member here probably agrees with you—I know I do—that we can't continually keep having these private members' bills. As a matter of fact, the issue you speak about is being dealt with and will be dealt with under the Sewell commission. That is in the works right now, to make those kinds of changes, so that will deal with that.

Outside of that, the Ministry of Municipal Affairs does not object to this bill, as long as the amendments are carried that are being brought forward. There are four amendments to deal with your concerns.

1020

The Chair: Ms Smith, if you'd like to answer some of the concerns that have been raised by the other presenters, and then I'm going to turn to Mr Johnson.

Ms Smith: Just a couple of points: There was a concern raised about the definition of "fill." The reason the definition of fill has not been included in this authorizing legislation is that this legislation works in conjunction with the Conservation Authorities Act, and the regulations under that act contain a very clear definition of fill. Any bylaw passed pursuant to this authority, as a matter of statutory interpretation, cannot conflict with that definition of fill. So in my view that is not a concern and, properly, a definition of fill should not be in this authorizing legislation.

There was a concern expressed about an appeal process. I refer you to section 5 of this authorizing legislation, which provides for an appeal process that must be included in any bylaw passed under this act.

There were concerns expressed with regard to exemptions for farmers. I would suggest to you that those concerns are addressed in the amendment that has been put forth today exempting regulation of "normal farm practices" as defined under that act. That definition is very broad, so farmers carrying on their business of farming are not going to be affected by a bylaw that is passed pursuant to this authority.

One final point: This is authorizing legislation. This legislation does not create regulations. Those regulations are created by bylaw at the municipal level. People affected, specifically farmers affected by any bylaw that is passed pursuant to this legislation, still have an opportunity for input at the local level, and it is my submission that that's where that input should properly take place.

Mr David Johnson (Don Mills): I need to ask somebody something, and Ms Smith may be the person, as she commented on it.

The OFA specifically has asked for an exemption for farmers from the need for permit and grading plans to dump fill in conjunction with construction of a building, manure storage facility, erosion control structure or farm pond. The amendment that's before us, that you said you felt dealt with the request of the OFA, specifies that the exemption would pertain to "the construction, improvement, alteration and maintenance of drainage works as defined in the Drainage Act or the Tile Drainage Act."

I'm just wondering if that amendment fully incorporates the concerns of the OFA, and I assume the Christian Farmers as well, for manure storage facilities, or in conjunction with the construction of a building; they might be thinking of a barn, for example. I don't know the Drainage Act or the Tile Drainage Act, I'll confess, but it doesn't seem to me that they may be covered under this amendment.

Ms Smith: Mr Johnson, you should have before you an amendment that encompasses (f) and (g), and (g) also exempts "normal farm practices" as defined in the Farm Practices Protection Act. That's the provision I'm referring to that in my view would encompass that.

Mr David Johnson: My apology. It's right here, and I overlooked it. It's your contention, then, that normal practices as defined in the Farm Practices Protection Act would include a manure storage facility, for example?

Ms Smith: That would be my interpretation. I'm not sure if you have the definition before you.

Mr David Johnson: No, I don't. I wonder if the gentleman from the OFA could comment on whether that's his understanding.

The Chair: Mr Hayes has a point of information.

Mr Hayes: We have a representative from the Ministry of Agriculture and Food, and if you want the proper interpretation, I think he'll be glad to give you one.

Mr David Johnson: Could I ask that gentleman, then? You have the concerns as expressed by the OFA with regard to construction of a building, a manure storage facility, an erosion control structure, for example. Would they be incorporated under clause (g)?

Mr Howard Lang: My name is Howard Lang, with the Ministry of Agriculture, Food and Rural Affairs, manager of agronomic regulations. I have the definition of "normal farm practices" before me. I will read it out.

"Normal farm practice" means a practice that is conducted in a manner consistent with proper and accepted customs and standards as established and followed by similar agricultural operations under similar circumstances and includes the use of innovative technology used with advanced management practices."

That would be covered under the amendment.

Mr David Johnson: So a manure storage facility would be somehow covered under there, would it?

Mr Lang: Yes.

Mr David Johnson: I'll have to take your word for it. It's not obvious to me how it is, but that would be—

The Chair: There are not many of them in East York; is that what you're saying?

Mr David Johnson: No, there are not too many in East York. What about exemptions for farmers filling low areas in their fields? That would also, in your opinion, be incorporated under there?

Mr Lang: Yes. Those types of normal farm practices would be included in that exemption and covered under that exemption.

Mr David Johnson: I'd be interested in the response of the OFA, whether they now feel that satisfies. Also, it's been pointed out that section 5 does allow for an appeal to the Ontario Municipal Board within 180 days. Perhaps they could address two questions: Are they satisfied with that appeal process? Are they satisfied with the explanation of normal farm practices under the Farm Practices Protection Act?

Mr Kamenz: We recognize the provision of the appeal process. However, with the OMB backlog, we're somewhat uncomfortable with it. First of all, you have to get a permit to dump the fill, and then you can enter into this long sort of arbitration period about whether it is within the intent of the legislation or permissive under the intent of the legislation. Meanwhile, your whole building project is being backed up and backed up and backed up. So we're not very comfortable with the appeal process that's laid out, and that's why we would be more comfortable with having an exemption for the need for a permit, provided that the alterations fall within the Farm Practices Protection Act. We would rather not have to go to the permit process.

Mr David Johnson: And in terms of the explanation the gentleman has given under clause (g) of the amendment that's before us, the Farm Practices Protection Act, he claims your points (iii) and (iv) on the bottom of your submission would be covered and that you would be exempted for manure storage facilities and for filling in low areas in your fields and things like that. Are you satisfied with that explanation?

Mr Kamenz: We're satisfied, but I'll again stress the point that we're not very comfortable with the idea of having to get a permit to do it.

Mr van Donkersgoed: I have a reservation about whether we should be satisfied. I need to ask Mr Lang where this definition he has read exists. Is it the one within the Farm Practices Protection Act?

Mr Lang: Yes, it is.

Mr van Donkersgoed: Then my concern is that the Farm Practices Protection Act has a very limited scope in terms of discussing normal farm practices: It discusses odour, noise and dust. That's the focus of the Farm Practices Protection Act, and from where we sit in terms of the broader scope of normal farm practices, I would not accept the definition that exists within the Farm Practices Protection Act as one that satisfies concerns we would have.

Mr Lang: We're using the definition of "normal farm practices," but we are not using it for the nuisance odour, dust and noise control. It's a definition we're looking at, rather than the specific three areas the board addresses. The definition is there defining "normal farm practices" outside of this—

Mr van Donkersgoed: If the definition itself were in a different location, I could live with it. If you put it right into this bill and didn't use the amendment referencing the Farm Practices Protection Act, I could be much more comfortable with the definition. My interpretation, from the little bit of legal reading I do, of that definition is that it is very clearly focused within the context and purposes of the Farm Practices Protection Act, and we don't use that definition elsewhere. If you were to actually put that definition itself in this bill, I could be comfortable, but I would be very concerned about legal arguments saying that the definition is very clearly limited to certain areas of concern about farm practices.

1030

Mr Dombek: Perhaps I can be of some assistance to this committee. In a previous lifetime I was the legal director at the Ministry of Agriculture and Food. I actually drafted the Farm Practices Protection Act, with the help of legislative counsel. I think what the ministry official has said is correct. Actually, I think it's a very good reference point, because in that definition of "normal farm practice," it refers to "agricultural operations." An "agricultural operation" is defined very broadly in the Farm Practices Protection Act. If the committee has a second, I can read it to you. It says:

"'Agricultural operation' means an agricultural, aquacultural, horticultural or silvicultural operation that is carried on in the expectation of gain or reward, and includes,

"(a) the cultivation of land,

"(b) the raising of livestock, including poultry,

"(c) the raising of fur-bearing animals and game birds,

"(d) the production of agricultural crops, including mushrooms, greenhouse crops and nursery stock,

"(e) the production of eggs and milk,

"(f) the operation of agricultural machinery and equipment, including irrigation pumps,

"(g) the process necessary to prepare a farm product for distribution from the farm gate,

"(h) the application of fertilizers, conditioners and pesticides, including ground and aerial spraying, and

"(i) the storage, disposal or use of organic waste for farm purposes."

The way I would interpret the amendment in this bill and how it would operate is that if the farmer were carrying on a normal farm practice, the municipality would have to go to look at the definition of what an "agricultural operation" is in that statute. They would have to marry the two together. So before a farmer would be charged under a bylaw for grading or something along this line, they would have to make sure it was a normal farm practice.

Now, there's one caveat to all this. There is a protection from nuisance claims in the Farm Practices Protection Act, and that is very specific for nuisance claims. What the gentleman from the Christian Farmers Federation has said is absolutely correct in that regard. We have to be careful in this bylaw that we don't reference too much of the Farm Practices Protection Act, because

the Farm Practices Protection Act does contain an exemption for any local land use control bylaw. That's the key element here.

I think it is appropriate, instead of redefining it again, to bring that definition into this act, if you are going to pass it, and I think that some very good points have been made about whether we should amend the Municipal Act, and then leave it at that stage. Then the municipality, in this case Glanbrook, is going to be tied into the other definitions.

Mr David Johnson: It's your suggestion that this bill, if I understand you, be redrafted such that those parts be actually included in the bill. Is that what you're suggesting?

Mr Dombek: I think it would be useful to include the definition of both "normal farm practice" and "agricultural operation" in the bill.

Mr David Johnson: Right within the bill itself, rather than referencing—

Mr Dombek: Not necessarily; you can do it by reference. I will turn it over to Cindy Mifsud, your legislative counsel, but I think she would agree with me that referencing the two would be more than adequate.

The Chair: We have a couple of other speakers, and then I will turn to Ms Mifsud. First of all we have Mr Eddy, who I know has been very anxious to say a few words.

Mr Ron Eddy (Brant-Haldimand): And waiting patiently because of the important information that's being submitted. I'm very pleased to see representatives of two of our farm organizations in Ontario present to give their views about and comments on this particular bill, realizing that there have been several passed and indeed I expect will be a number submitted before we get to Sewell—although that may be imminent; I don't know.

I see this, and I hope everyone agrees, as a protection for agriculture, really, realizing that the township of Glanbrook has a long common boundary with the city of Hamilton and is in a large urban area—I suppose it's between 500,000 and 1 million people—and realizing the type of land in parts of Glanbrook, it's no doubt true that farms can be bought up pretty reasonably for the sole purpose of dumping fill. Of course, some of that, as we know, might be dumped at night, and it's not necessarily 100% earth or usable soil that's in the fill. So there are some real concerns.

I'm not surprised that the council of the township of Glanbrook is here before us today and I know there will be many others before us, because it is a great concern to municipal councils.

I'm pleased that the OFA has submitted a proposed amendment which I can support. I expect or suspect that OMAF is now on side with the intent of this particular act because I believe at our previous meeting OMAF had expressed some concerns. I don't think we knew what they were but they'd expressed concerns on this particular private bill but not on previous private bills regarding the same matter and giving the same authority to municipal councils.

I hope that's cleared up. There has been considerable

time elapse since the time this was first presented, unfortunately, and I suspect, having been contacted by the mayor of the township of Glanbrook about the matter, it's a real concern for that municipality. In finishing, I see it really as a protection for agriculture because of all the things that can happen these days with the dumping of fill, whatever ingredients may be in that fill.

Mrs Ellen MacKinnon (Lambton): Perhaps what Mr Eddy has just said is partially what I wished to get clarified. I notice in the OFA letter it says that since 1985 we've been faced with eight of these private bills, and there are still two to come. I'm wondering why this hit-and-miss approach is being taken when it could be taken care of under the Municipal Act. Has anybody got an answer for that, any of the Ministry of Agriculture people?

The Chair: If I can take a stab at it, I think most of these acts are prompted by the municipalities. They're brought before us and at times the ministry has been advised and has commented on them, and I think that's actually more recently than previously, so I think the issue has come to everyone's light somewhat later in the game than maybe we would like, but it has now happened. I think the members here have to make sure that it answers the range of concerns presented by the various delegations. I'm just obviously trying to lend some order to the whole process.

Mrs MacKinnon: No way am I saying we should slough these people aside, but I'm just asking, why hasn't something been done in the Municipal Act, because I suspect—well, 1985, we're almost 10 years. I don't understand, really. This has been very costly to municipalities, I'm sure.

Mr Hayes: We're taking steps to address that issue now. That's where we're at.

Mrs MacKinnon: That's fine. If that's being done, then I can rest in peace. I was a bit shocked about this.

1040

Mr Ron Hansen (Lincoln): From last, I think it was, December 8 when the bill came forward, I opposed passing the bill at that time until there were some changes made. I know that a similar bill had been passed in the town of Lincoln with infilling like this, and I think at that time as it went through—and I think Ms MacKinnon's concern is that the town of Lincoln is a largely agricultural area. The mayor, a farmer himself, and most of the ones who sit on council are farmers, so when they were taking a look at the bylaws they were drafting, they were going to look at the agricultural sector of the community.

The one thing is that as we go on, we always see improvements we can make. I would like to say that the amendments I have before me here, I think, will satisfy all parties. If we can go on and if there aren't too many more questions, we have about four or five amendments that will address everything. I will be voting in favour of this bill when these amendments are brought forward, as long as members of this committee pass the amendments.

The Chair: Thank you, Mr Hansen, but first I'd like to turn it over to legal counsel.

Ms Lucinda Mifsud: What we've done is incorporate a definition which then incorporates another term, "agricultural operations," which, as Mr Dombek read, is a whole page. We tried to avoid doubling the length of the bill by just cross-referencing them. They are out of context and all they're meant to do is just incorporate that definition into the bill, not the context.

So I still think it works, but I've added on to the motion that I think everyone is satisfied, which in clause (g) will read: "Normal farm practices as defined in the Farm Practices Protection Act as carried out by agricultural operations as defined in that act." If there's any doubt as to whether the long definition of "agricultural operation" was also included, this will take away that doubt. From an interpretative point of view, I don't think it's necessary, but if it eases anyone's mind, I don't think there is any problem with it from anyone in the room whom I've consulted.

The Chair: We have a comment from the gentleman from the OFA.

Mr Kamenz: I think if you are prepared to do that, we would be far more comfortable too if reference was made to the Conservation Authorities Act as far as the definitions for "fill" and "refuse" and "debris" are concerned as well, so that there is no misinterpretation.

Ms Mifsud: I am sorry, those are policy issues that I can't really address there, and I don't know if the conservation authorities people are here. I couldn't really address what you're asking; all I'm trying to do is resolve this definition problem of the cross-reference in the Farm Practices Protection Act.

The Chair: Are there any further questions or comments?

Mr Eddy: Just to clear up the point about "debris" and "refuse," does that come under a property standards bylaw and is already covered in some way? It seems to me that the need here is to have the dumping of fill regulated, that that's the primary purpose, because other things are covered under various acts. I know the Property Standards Act is one thing. I have no problem including it if it's a safeguard and if it is needed. I think it is a pretty important issue, but perhaps the solicitor for the township of Glanbrook can respond on that particular point.

Ms Smith: Perhaps I could defer to a representative of the Ministry of the Attorney General. The definition of "fill" was included in the original draft of this bill, and it was recommended that it be removed because of the definition contained in the Conservation Authorities Act regulations. I remind the committee members that this is authorizing legislation only, so for a bylaw to be passed, the definition of "fill" in that bylaw must be in accordance with provincial law. Whether it's in this act or any other act, it's duplicating provincial law by requiring it to be included in this act, and that's why it was taken out.

Mr Eddy: I see.

The Chair: Are there any further questions or comments at this time? Are the members then ready to vote? Yes. Thank you.

Okay, if we can wait one moment, the clerk is going

to quickly get copies of the new amendment to, I believe it's section 3. So we'll recess for about five minutes and then start off once we have copies of that amendment.

The committee recessed from 1045 to 1050.

The Chair: I'd like to call us back to order, and we will continue with Bill Pr63, An Act respecting the Township of Glanbrook.

Just to advise everyone, you should have before you a new amendment to section 3, and what marks it as different from the previous one is that there are obviously some handwritten notes on it. If you don't have it, please advise the clerk. You all have one, good. Are we then ready to vote?

Mr Hansen: Yes.

The Chair: Good. Shall section 1 carry?

Interjection: There's an amendment.

The Chair: You've got to be fast. Mr Hansen.

Mr Hansen: I have an amendment to clause 1(1)(g). I move that clause 1(1)(g) of the bill be amended by adding after "and" in the third line "carry out an inspection or."

The Chair: Is everyone in favour of that amendment? Agreed.

Is then everyone in favour of the clause as—

Mr Hansen: I also have an amendment to clause 1(2)(c). I move that clause 1(2)(c) of the bill be amended by adding after "out" in the second line "an inspection or."

The Chair: All in favour of that amendment? Agreed.

Mr Hansen: Those are all the amendments I have for section 1.

The Chair: Shall the amended section 1 carry? Carried.

Shall section 2 carry? Carried.

Mr Hansen: I have an amendment to section 3. I move that section 3 of the bill be amended by striking out "or" at the end of clause (d), and adding the following clauses:

"(f) the construction, improvement, alteration and maintenance of drainage works as defined in the Drainage Act or the Tile Drainage Act; or

"(g) normal farm practices as defined in the Farm Practice Protection Act as carried out by agricultural operations as defined in that act."

The Chair: Is everyone in favour of that amendment? Agreed.

Shall section 3, as amended, carry? Carried.

Shall section 4 carry? Carried.

Mr Hansen: I have an amendment to section 5. I move that section 5 of the bill be amended by adding the following subsection:

"Errors

"(4) The board may, without a hearing, correct an error in a decision made under this section if the error is of a typographical, clerical or similar nature."

The Chair: Is everyone in favour of the amendment? Agreed.

Shall the section, as amended, carry? Carried.

Shall section 6 carry? Carried.

Shall section 7 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill, as amended, carry? Agreed.

Shall I report the bill to the House? Agreed.

Thank you, and thank you, Ms Smith, and to the other presenters.

TOWNSHIP OF HURON AND
VILLAGE OF RIPLEY ACT, 1994

Consideration of Bill Pr78, An Act respecting the Township of Huron and the Village of Ripley.

The Chair: Our next order of business relates to Bill Pr78, An Act respecting the Township of Huron and the Village of Ripley. I would ask Mr Elston, the sponsor, and Mr Albert Ostner to come forward, please. Another interesting morning in regulations and private bills.

Mr Murray J. Elston (Bruce): Actually, I rather congratulate the members of the committee for taking some time on that. That is a big issue and I think it's a fundamental one for those of us to happen to represent rural ridings. Obviously, making sure that the farmers are still able to practise is a pretty big issue up where I am. I know you don't want people taking over farm land for dumps or as places of convenience to park some of their material. I congratulate the committee, although I must admit I had a couple of other things that kind of were on the list. But let's go to the bill.

The Chair: You could always have joined in, Mr Elston.

Mr Elston: Pr78 is a pretty important issue for our area as well. As you can probably well remember, there have been reports about reducing the number of municipalities in the Bruce county area. In fact, there were a couple of sponsored discussions about that. But what has happened is that the village of Ripley and the township of Huron have come together and have concluded an agreement to amalgamate.

Mr Ostner is here as a representative of the two municipalities to make some changes that are required to the Power Corporation Act. Perhaps I'll let Mr Ostner now take the lead on explaining exactly what those changes are, although the committee members may very well have heard some of this debate before, because this is another repeat performance, in terms of principles anyway, with respect to amalgamating municipalities.

Mr Albert Ostner: Good morning, Madam Chair and members. The amalgamation agreement between the two municipalities was executed in November 1993 by the two municipalities and the county of Bruce. The Minister of Municipal Affairs has now executed the required order in council, on March 9 of this year, approving the proposed amalgamation. The effective date for the new amalgamated municipality is January 1, 1995. The regulation also establishes the Ripley Public Utilities Commission, again effective January 1, 1995.

However, before the new municipality and the new public utility can be established, special legislation is

required to exempt the new amalgamated municipality from certain requirements that are presently contained in the Power Corporation Act. That act requires that if a municipality serves its inhabitants with hydro power, it must serve all of its inhabitants. At the present time, the village of Ripley has a hydro-electric system which serves all of the inhabitants of Ripley. The present township of Huron obtains its hydro from Ontario Hydro. Once these municipalities have been amalgamated, the Power Corporation Act requires that the entire area of both municipalities must be serviced by the local PUC.

The purpose of the private bill before you today is to exempt the new municipality from this particular requirement, given the costs that would be incurred in order to comply with the requirements of the Power Corporation Act. These costs would include purchasing from Ontario Hydro the required infrastructure and the further cost to expand the PUC staff and facilities to service the new area; that is, what is now presently the township of Huron. The effect of the private bill would be to allow the residents of the present village to continue to be served by the local PUC, and the residents of the present township of Huron would continue to be served by Ontario Hydro after amalgamation has taken effect.

As you're probably familiar, this House has already passed similar legislation. That was Bill Pr87, being An Act respecting the Township of Aldborough and the Village of Rodney. The circumstances in that particular case were identical to the facts of this case. In that particular case, the Legislature gave first reading to Bill Pr87 on May 31, 1993, and royal assent was granted on June 30, 1993.

Those are my submissions.

1100

The Chair: Just by normal course of events for these sessions, I would ask if there are any objectors, any other interested parties who wish to come forward relating to this bill. Seeing none, I will first turn to Mr Eddy and then to Mr Hayes.

Mr Eddy: I'm in support of the bill. Thank you for giving the example of Rodney and Aldborough. It's also happened in many cases where police villages are dissolved within townships and the municipal electric body is continued, and should be.

This is the one question I have: I note that you're limiting the hydro service to the area of the former village of Ripley. In many cases, adjoining lands have been included at this time so indeed they can be provided with electrical service from the municipal utility. Are there either buildup or open lands that should be, or did you not look at that matter?

Mr Ostner: I was not involved in the initial discussions. However, Ms McGrath of the ministry is here and perhaps she could respond to that.

Mr Elston: Actually, if I could also indicate, the built-up area around the village of Ripley is very limited. There may be one or two houses that come right next door to the actual limits of the village. This isn't the usual situation where you have a long strip of development around the outside that is in the township. There

may be one or two properties that might have been contemplated, but it represents not a large volume of property owners.

Mr Eddy: It's perhaps not a problem, because I understand that a government bill will be coming forward to allow municipal electrical authorities to expand their services to adjoining areas without serving the entire municipality in the case of a rural township. It's very much required. We have a very odd situation in the areas of the province because they cannot expand.

Mr Hansen: I'm just going to repeat what Mr Eddy has said. Just a reference to the town of Lincoln, the same situation: The boundaries expanded there to take in the small villages of Jordan and Vineland, and now the municipality is taking a look at this new bill to be passed to expand the Lincoln utility out to some of these other areas and eventually take them into the Lincoln utilities department. I'm going to support this bill because I think it's a move in the right direction. Even though you don't have the bill in place as it is right now, you can expand at the rate that you feel the municipality can.

Mr Hayes: The Ministry of Municipal Affairs supports this bill and compliments both municipalities on their efforts.

Mr Eddy: It will be a happy marriage.

Mr David Johnson: Just to make it unanimous, I'll go on record as saying that I certainly recognize the democratic wishes of the people of the township of Huron and village of Ripley as expressed through their elected representatives, and we support it.

The Chair: Thank you, Mr Johnson. You're sort of taking on some of the role of Mr Ruprecht in this regard. In any case, all levity aside, I would take it from the comments that have just been made that members are ready to vote. Anybody contrary to that? No? Shall we then start our voting procedure?

Shall section 1 carry? Carried.

Shall sections 2 through 7 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Very good. Thank you very much, Mr Elston and Mr Ostner.

Mr Elston: I'll see if I can get you an invitation to the reception after the wedding.

Mr Hansen: Murray is House leader, and you'll note that it only took about seven or eight days to get this bill through the House.

Mr Elston: As House leader, I helped it out.

TOWN OF BOTHWELL ACT, 1994

Consideration of Bill Pr89, An Act respecting the Town of Bothwell.

The Chair: Our next order of business is to call forward Mr Hope and Mr Magee, who are here on behalf of Bill Pr89, An Act respecting the Town of Bothwell. As sponsor, Mr Hope, would you like to make a few opening remarks and turn it over to the applicant?

Mr Randy R. Hope (Chatham-Kent): Thank you very much, Madam Chair, and to my colleague who is parliamentary assistant to the Minister of Municipal Affairs, Pat Hayes, and who is in a neighbouring riding of mine.

I believe the bill that is being brought forward by Mr Magee is one that addresses one of the municipality's concerns of restructuring and I'm hoping that we can expedite this process so that it would be in place for the next election for the municipality. I ask for your support for Bill Pr89 and I would now turn it over to Mr Magee, the solicitor for the town of Bothwell.

Mr William Magee: Madam Chair, members of the committee, yes, I am the solicitor for the town of Bothwell. I practise in the city of Chatham. Bothwell is a town in the northeast section of Kent county. It was originally incorporated in 1867 as a town because at that time oil had been discovered in that area and there was a proposed substantial population. However, over the years the population has decreased substantially and as of 1991 the population is only 928 persons.

Unfortunately under the Municipal Act, section 30, for towns it allows only either six councillors or four councillors, together with a mayor and a reeve. Bothwell was never big enough under the county system to have a deputy reeve. So for many years, they went along with a mayor and a reeve and six councillors. But in 1990, for economy measures, they decided to reduce the number of councillors. At that time, I gave them the opinion that unfortunately they could only reduce to four without a private bill.

They went ahead and did that and obtained the consent of the Ontario Municipal Board so that they wouldn't have to have the assent of the electors. But that unfortunately then left the council with six members: a mayor, a reeve and four councillors. In the last year or so, when votes have been coming up in council, three have been voting for and three have been voting against. This is happening quite frequently, so the business of the town is not being effectively carried out.

It was with that in mind that we decided to seek a private member's bill. Notice of the application was published in the Ontario Gazette and the local newspaper in Bothwell, called the Spirit of Bothwell. No objections were received and I don't believe there is anybody here objecting to it.

By reducing it to a mayor and a reeve and three councillors, we'll then have an uneven number and I would hope then that the problem with these continuous stalemates will be eliminated.

The Ministry of the Attorney General and the Ministry of Municipal Affairs felt that the subsection of section 30 which indicates how quickly the bylaw, once it is passed by the town, is to be put into effect should be part of the private bill. There is an amendment before you to add a subsection (2).

The Chair: Mr Magee, one of our members will in fact be reading that into the record when it comes time for the vote.

Mr Magee: Yes. I have seen the amendment and I'm

in complete satisfaction with it because certainly it was the intention of the town, as soon as this legislation became effective, to get the bylaw passed and to remedy the situation.

1110

The Chair: I understand the obligation at this point is to ask if there are any other objectors or interested parties who wish to come forward and speak to this bill.

Seeing no one rushing forward to the mike, I will turn it over to Mr Hansen and then Mr Eddy for questions of the deputants.

Mr Hansen: I'm going to support this bill because I received nothing in my office, and if a municipality is upset at what's going on, I usually get a letter because we sit on this committee. Mr Hope hasn't signified to me any particular problem with this, and I think we have to pass this legislation so that with the upcoming elections in the fall the different councils throughout Ontario are prepared on the number of people who are going to be running forward, so these councils can put things in place before the next election. I think that the municipalities, especially small ones, which I represent also, have done a lot of restructuring and a lot of cost-saving compared to some of the larger ones. I'll have to commend you on that for the work that's gone into this and I'll support this bill.

Mr Eddy: I support the bill as well and compliment the council officials of the town of Bothwell coming forward to reduce the size of the council. Certainly, it's more a village size so it's appropriate to reduce it to five. I have never had the privilege of sitting on a council where there was an even number of members, but I can well think how perhaps disastrous that could be on occasion, so I compliment you.

As we know, the Municipal Act is outdated and archaic in many ways and does not give municipal councils the flexibility that they probably should have, but I hope we'll be looking at that one day, so I certainly support the bill and let's get on with it.

Mr David Johnson: I simply congratulate Mr Magee for outlining the situation, and it's been interesting to learn about the town of Bothwell, a place with quite a history, and again I respect the opinion of the elected representatives in the town of Bothwell. They are seeking to address a problem, obviously doing it with the support of their community, and I'll certainly be voting for the bill.

The Chair: Any comments?

Mrs MacKinnon: Just one little point I have always been fond of, when you drive through Bothwell, there's a sign that says the "Best Little Town in Ontario." I hope you leave that up.

Mr Magee: I'm sure they'll leave that up. That's why, even though they've reduced in size, you'd never get them to agree to stop calling themselves a town.

Mrs MacKinnon: My kids always loved that sign.

Mr Magee: Even though there are only 900 people there, they're very proud of the fact that they are a town.

Mr Hayes: The ministry has no objections, and I'd like to compliment the people there, especially the MPP

for Chatham-Kent, my neighbour and the great job that he's done here today in bringing this bill forward.

The Chair: I take it from the comments that members are ready to vote.

Mr Hansen: On section 1, I have to move an amendment so after you get through the preamble, just so you don't get through this bill too quickly.

The Chair: Don't rush ahead, okay. I take your point. Shall we then begin the vote?

Shall section 1 carry?

Mr Hansen: I have an amendment to section 1.

I move that section 1 of the bill be amended by adding the following subsection:

"Timing

"(2) A bylaw passed under subsection (1) or a bylaw repealing it shall be passed not later than 30 days before the last day for posting notice of the offices for which persons may be nominated in accordance with the Municipal Elections Act."

The Chair: Is everyone in favour with the amendment? Agreed.

Then is everyone in favour of section 1, as amended? Agreed.

Shall sections 2 and 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Agreed.

Thank you very much for your time.

Mr Hope: Madam Chair, on a point of information: As we deal with the amendment to the section, when do we expect this bill to be reported to the House—

The Chair: Today.

Mr Hope: —and when can we expect the bill, so that things will be appropriately taken on behalf of the municipality?

The Chair: Our clerk, Miss Grannum, will definitely make sure that there is a report ready and it will be read into the record today.

Mr Magee: And I can assure this committee that once this legislation is in effect, the bylaw will be passed.

The Chair: Very good. You must realize that as far as royal assent, what happens is that the committee report will be reported but royal assent may in fact come a little later. It may be prudent for Mr Hope then to talk to the House leader to see how that will be on a schedule for royal assent.

CITY OF KINGSTON ACT, 1994

Consideration of Bill Pr91, An Act respecting the City of Kingston.

The Chair: At this point I'd like to call the delegation for Bill Pr91, An Act respecting the City of Kingston. Mr Wilson, if you would introduce the applicants, please. It might mean you have to come forward in shifts, so if I could first of all ask Mr Wilson and the

applicant—I believe that's Mr Jackson—if you would take a spot. There are not necessarily all that many mikes right away.

Interjections.

The Chair: Could I ask for some order, please. So, Mr Wilson, if you would like to introduce the applicant.

Mr Gary Wilson (Kingston and The Islands): Thank you very much, Madam Chair. I note that you've saved the best for the last here, and perhaps the most interesting, but we'll let events determine that.

I would like to introduce to the committee the proponents of the act, Norman Jackson, the city solicitor, and Marion Rogers, the city clerk of Kingston. I'll turn it over to Mr Jackson so he can describe what the bill involves.

Mr Norman Jackson: What we're here to do today is to ask for your support in a proposal for downsizing in Kingston. We have with us some friends who have different perspectives on it: Mrs Mooney, Mr Fyfe and Joe Ferguson, whose company we have enjoyed at a previous Ontario Municipal Board hearing into the ward boundaries. What we're here today for, though, is for permissive legislation to allow the municipal council to reduce its numbers. We all know that's not an easy thing to do for any body, but through a difficult process, the city of Kingston council has decided to ask for legislation to downsize its numbers.

The city of Kingston is a ward type of city. It has had wards since the 1800s and wants to keep the wards. So, faced with the idea of being more efficient and trying to deal with the realities of economic considerations, the city hired a Queen's University professor, I believe a friend of Dr Fyfe, who was a part-time chief administrative officer for us, and he did a study at the same time on our government. In a very lengthy report, he reported on changes to the administration and to the council. Mr Collom's recommendations were centred on, in his opinion, the council itself showing the leadership that would be evident in the community and evident to the administration in making changes to themselves.

In the history of that process, which took over a year, the council at first was of a mind to include the question on the ballot, which would have meant that it would come into effect later, at a subsequent election, but they decided just before the end of 1993, after holding two public meetings, to proceed for this election, with the hope that we would have this in place for the 1994 election. We know that was difficult and is difficult, but we have attempted to cram a fair amount into a limited period of time, including the Ontario Municipal Board hearing which took place on the redrawn wards themselves.

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We want you to know that this is not totally a downsizing. This is a compromise between our existing ward system, which included seven wards at two councillors per ward, which is 14 councillors, plus the mayor, now going to 10. We wanted to not totally downsize but to arrive at a compromise, for the benefit of those councillors and for the public. That was arrived at by Professor

Collom. His suggestion was to expand the number of wards so that when we, hopefully, got the authority—and we're asking for the authority to do it. We're not asking you to do it; we're asking for the authority for the municipal council to downsize itself.

The compromise was to create three new wards, so there would be 10, and if we obtained the permissive legislation from the province, there would be one councillor per ward, for a total of 10 councillors instead of the 14. So we're moving not from 14 to 7, to cut it in half, but we're moving from 14 to 10. That's the proposal. As you well know, time is coming nigh in terms of having that in place for this election.

We believe the decision today is whether that type of permissive legislation, to allow the council to move from two to one per ward, is appropriate. It's not a question today, we don't believe, of the type of wards we've drawn or the population levels. We want you to know that there were a number of people in attendance at the public meetings—not a large number, from our point of view, but there were some people—who expressed concern, and they've continued to express their concern at the Ontario Municipal Board, and they're here today. There's a difference, perhaps, in philosophy and there's perhaps a difference in who will make the decisions. We'd like to see the elected representatives have the power to make the decision, a difficult one, to downsize themselves.

We note that this is not something that's being done only in Kingston. We've paralleled our legislation on the city of Ottawa legislation, which it obtained in 1972. There are a number of other municipalities across the province, both counties and towns, that are looking for and have obtained similar legislation. We hope, with your assistance, to have this legislation in place for this election. That is our goal.

We will look at things that arise from time to time. We've been asked to do that by other objectors, but any differences in population that we've created in the wards—which again I say is a question for the municipal board and any possible appeal from that decision to a different body—we feel we can look at those issues. There were answers on differences in population based on population protections, based on fluctuations in students at Queen's University. We think there were appropriate answers to the differences in population levels provided, and they were accepted by the Ontario Municipal Board after a two-day hearing. A very learned decision has been rendered on that, which we have before us.

So in the process, we have come before you. We have different bylaws in place if this legislation is obtained, and we hope to have it in place for the November election.

The Chair: Before I turn to our members, I think it would be appropriate if some of the objectors had a chance to present their view. I have listed here as interested parties Mr Fyfe, Mr Ferguson and Mrs Mooney. Mr Fyfe, if you'd like to make a few comments.

Mr Stewart Fyfe: I think my submission has been circulated to the members. I have a few small changes, basically at the bottom end.

I would like to start by stating something of my qualifications. I've been involved with local government since 1950. I've been teaching at Queen's University off and on since 1948, and I'm now partially retired. My specialization is local government. I have been both a practitioner, working in Kingston city hall for a number of years, and I have been a consultant. I was the commissioner for the Waterloo regional government proposal of 1970. I have studied and acted as a consultant literally from Whitehorse to Seldom Come By, Newfoundland, and from San Francisco to Moscow, including a period as a witness before the British House of Commons private bills committee on a municipal bill. I'm also currently chairman of the Cataraqui Region Conservation Authority, and I think Mr Eddy, whom I've dealt with before he was translated to this place, can speak to my qualifications.

The proposal to allow Kingston to have one council member instead of the standard two may seem a small matter to make a fuss about. It is important, however, because the form of representation is an integral part of the democratic process for ensuring representative and responsible government.

What at first seems to be a minor and local matter is before the Legislature because the matter is not necessarily minor and because the Legislature has a responsibility for the overall effectiveness of the system of local government as a matter of public policy.

The issues are complicated by being tied to the questions of council size—the downsizing—and ward boundaries. The explicit issue here is the number of representatives per ward, and those related issues I'll deal with later.

The principles of two or more representatives per constituency goes back to the earliest days of our political history. Ward systems were the norm in English boroughs, and this was carried over to North America. It appears in the earliest municipal legislation in Ontario.

When Kingston was incorporated as a town in 1838 there were four wards, with two council members per ward. When it became a city in 1846, a ward was added. The Baldwin Act of 1849 extended the city boundaries, added two more wards, and representation was increased to one alderman and two councillors per ward. These provisions remain basically unchanged today, except for the reduction to two members per ward in the 1960s.

One explanation given for the origins of multi-member representation is the composition of the English parliaments. From the very beginning it was two members: two knights from every shire and two burgesses from every borough. This pattern of dual-member constituencies was the rule until the late 19th century, and only finally disappeared in 1945, the last of the double-member—

The Chair: Just for the sake of time, normally we only sit until noon, and it is now almost 11:30 and we have several other members of the public who wish to make presentations. I don't really like to do this, but in the interests of everyone's time, is there some way you could provide us a précis, a synopsis of your comments which all members have before them?

Mr Fyfe: Yes. I'm sorry it was only possible to get it to them this morning.

The Chair: Is there some way you can provide us with a synopsis so that everyone else can get on? We have no problem in sitting a little bit past 12. It's just this could end up taking us—there are others, if you could keep that in mind.

1130

Mr Fyfe: Quite. The Canadian pattern was the same, of two-member constituencies, up until some time in the end of the last century, and the last of the two-member constituencies federally actually only disappeared in 1966, and I think provincially in BC with the last election.

The explanation for this goes back to the problem that if only one of your representatives was present—you have the lazy member, you have the sick member, the member on holiday; and we have increasing problems of members with conflict of interest, occasions where a third of the council has not been able to vote—you'd have only one representative. Or if the member didn't agree with you, a different party or a particular interest group or whatever, you might have difficulty finding someone to carry your case forward or represent your view, but if there are two members, you could go to someone else.

In fact, the dual members disappeared at the federal level and provincially because the party system appeared, so you had somebody else who had an incentive to act for you. And as the population grew, the constituencies just got too big, and it made sense to cut them in half.

Neither of these reasons are relevant to the city of Kingston, except perhaps for very large municipalities like the problems of Ottawa. The total population of Kingston is less than 60,000. The councillors can get to know their ward and their voters. There's never been any problem with that.

Locally, you can say that you can go outside your ward and find somebody else who'll speak for you. That may be true, and it often is, but they're in another ward. They owe their election to their ward and don't have the same incentive as they have to look after the people in their ward.

So the reduction in members does affect the whole process of democracy and how the system works. In fact, one author suggests that even at the national level, single-member districts can produce artificial constituencies which don't correspond to communities. This is to some extent borne out with the experience we had in Kingston, where it was somehow discovered that it was more difficult to preserve communities dividing the city into 10 rather than into seven wards.

No rationale had been given by the city for 10 single-member wards except that Mr Collom suggested it. Mr Collom arrived at that because he thought it would work better and it was easier to divide three geographic wards into two, to reach the total of 10, rather than to redivide seven into five. There is, I think, some onus on the city of Kingston to provide a better rationale than that for changing a system which has worked well for over a century.

The suggestion for decreasing the size of council originates with Mr Collom, who is basically a management consultant specializing in decision-making and industrial relations retained to improve the efficiency of city hall, so the report covers everything from the telephone system to the sewage plant. Five pages of his report analyse the fractious—we do have a fractious city council, I think no one disagrees with that; not as bad as Bothwell, but there are some problems. In five pages he goes over his personal observations, interviews, the merits of at-large versus ward elections, new board boundaries, size of council, revision of the committee system—a whole range of things.

The recommendation to reduce the size of council was then debated for several months. Council decided to put it before the electors. Then on December 5, the council changed its mind and decided to push it through; they were caught with deadlines. So we had a whole series of decisions, and I don't think the results were very well-thought-out.

We ended up with a curious business that the two smallest wards, with 13% of the electors, will elect two members of council, and the largest ward, with 16% of the population, elects one. This, I think, is a gross distortion of the representation. You have the table I prepared which sets this out.

Unfortunately, on the problems of reforming council, this question of size of council almost became a fixation with some of the members. The rush to downsize resulted in these very curious wards.

This question of effective representation goes to the very heart of our local government. The more voting rights are diluted, the more those benefiting will rationalize the merits of the status quo and the less power the disadvantaged have to remedy the situation which puts them at a disadvantage. Representation determines who has power, what issues are debated, who gets what and who pays for it.

Questions of the right to vote are central because they are the prime determinant of the composition of council and therefore what the municipality does. Size of council is also a factor in how wide is the representation and how council functions on a day-to-day basis.

Most of council's time as a collective is taken up with making decisions. However, one can stress too much the need for efficient decision-making at the cost of neglecting the representative responsibilities. Efficient decision-making holds the attraction of being easier to evaluate than the wide-ranging relationships of the elected representatives to their public.

There's a strong interest in downsizing at present. There's no doubt that the size of many public bodies is excessive and a review is a reality. The obsolescent provisions of Bothwell are very much to the point.

The danger of buzzwords, however, is they become an end in themselves and become a Procrustean solution to often complex problems. Procrustes is a character in Greek mythology who was a brigand who took his guest, tied him to a bed and made him fit by either stretching him out or cutting off his extremities. It's a way of

simplifying your solutions.

There are no simple rules as to the best size of council. Certainly, there are some large councils that work well and some that have worked badly. There are some township councils which work well and some which are a disaster. Nobody asked why a system which had worked well for a long time had suddenly developed problems. It is not unusual that you have problems because the last thing one does is question one's own performance. The easiest thing is to blame the system.

The main determinants of size of council should be the size and diversity of the community. It serves the complexity and breadth of councils' responsibilities and how council organizes itself to conduct its affairs. In this the recommendations of the Camp commission are of considerable interest and refer to the Legislature and suggested that more representatives would make the Legislature function better in many ways.

The Chair: Dr Fyfe, we have three other speakers.

Mr Fyfe: I'm just about to finish. There are some of the same problems at local government of increasing demands on council members. A smaller council would not reduce the amount of constituency work. The work will have to be shared among fewer hands. Taking more time will reduce the number of citizens who can offer their services, and therefore you will have a less representative council and the people who will be left out will again be those who are most disadvantaged. Council will be poorer because it is less diverse. This is also true in logic, for as the size becomes smaller, the range of interests reflected by council's members are bound to be less.

The argument that it saves money makes me very uneasy for it sounds as if you're putting a price on democracy. It is a tiny item in a very large budget and one suspects the saving to be illusory as those who are left argue for more compensation for their increased responsibilities.

Comparison with other cities is also questionable since most of them are in regional governments where the responsibilities are much less.

1140

The Chair: Thank you, Dr Fyfe. Mrs Mooney, if you would like to go next and Mr Ferguson.

Mrs Irene Mooney: I'm not going to read my brief. I think you all have it and I hope you've read it. It is my opinion that the proposal to increase the number of boards and decrease the number of councillors is of substantial importance to the electors and thus, therefore, the question should be put on the ballot so the electors can vote on this matter. I believe the taxpayers have to be given more consideration now than they've received in a long time and decisions should be made that will ensure that any increases in taxation, if necessary, will be minimized.

I'm a taxpayer and I've attended council meetings for 30 years as an observer, all the committee meetings, when we used to have the committees, PUC, school boards, so I know the people and I know their wishes. They wish they would leave the ward boundaries as they are and the number of aldermen as they are now.

Mr Joe Ferguson: I'd just like to request that I be permitted to read my presentation—it's seven minutes to read—because it was put together by residents who are opposed to downsizing council: not that they are making a firm decision that they're totally against downsizing, but reasons why they don't believe this bill should be passed at this time.

The Chair: We've got about 10 minutes, so we'll give you the seven, if you would make sure, where something can be minimized, that you do. We have at least one more speaker, and there are members of the committee who have questions as well.

Mr Hansen: Madam Chair, this committee cannot sit beyond 12 o'clock without permission of the House leaders.

The Chair: I hope Mr Ferguson will take that into consideration.

Mr Gordon Mills (Durham East): We don't make the rules.

The Chair: So you understand that there is some time pressure.

Mr Joe Ferguson: Okay, I'll try and read it quicker, maybe five minutes.

The Chair: Okay, if you'd like to hurry along then.

Mr Joe Ferguson: I'd like to take this opportunity to introduce myself and express my reasons for appearing before this committee. My name is Joe Ferguson and I am a resident of the city of Kingston. I am here to represent what I feel is a large number of residents who for one reason or another are opposed to the issue of downsizing Kingston city council.

I wish to let it not be misunderstood: Residents of Kingston are not claiming a firm position on the issue. Although there may be a large number in favour and a large number opposed, the majority of both sides do agree for a number of reasons which I will address that the city of Kingston should not proceed with downsizing until all the concerns are addressed by the way of due process.

Before I begin, I would like to acknowledge that I wouldn't have had this opportunity if it wasn't for the generosity of a few Kingston city councillors. These councillors believed in my concern with not having both sides of the issue represented and out of their own pockets they managed to collect the cost of my trip to represent the other side. I strongly believe this action to be that of concern and not politically motivated, as has been suggested, and for this I gratefully publicly thank them.

To begin my presentation, I wish to take you through the process as it proceeded from the public side. In doing this, I am merely identifying when we perceived the actual process began for the residents.

On June 15, 1993, city council adopted a motion to accept in principle our interim CAO Frank Collom's recommendation to downsize the 10 wards with one councillor per ward, to hold a public meeting and to finalize its decision on numbers and distribution of wards following the public meeting, which was held July 6. On September 7, council voted not to proceed with down-

sizing and ward redistribution. One week later, council decided in favour of putting both issues on the 1994 ballot for the consent of the electorate.

The Chair: I hate to interrupt, but we actually have that here, so if you could possibly leave some of that and move along. We do have the chronology of the events.

Mr Joe Ferguson: I've only got two dates left there, if I may finish.

On December 7, council approved removing the issue from the ballot, approved implementing a 10-ward system with one councillor, approved in principle new ward boundaries and to make approval subject to a public meeting, to be held as soon as possible, and to approval of the private member's bill. The meeting was held on December 16 and all but one who spoke to the issue were opposed. On December 23, city council adopted a motion to present a bylaw for three readings to authorize an application to the OMB. Finally, on January 8, a notice was placed in the Whig-Standard that objections were being requested, forcing an appeal to the OMB, which was held on the 28th.

I must stress that all the voting that took place on this issue was very close. Because city council flip-flopped on the issue, the residents of Kingston were unclear if downsizing would be proceeding until it became clear on December 23. For this reason alone, I would believe that this date would be the actual date the process began.

Being the case, the public was not consulted between December 23 and January 8. The first public meeting was held, in my opinion, for opinions and the result of that meeting was evident by council's motion of September 7. The second public meeting, in my opinion, was held to determine whether the public had reconsidered their opinion. The results of this meeting had no merit, as far as those who attended are concerned, and it has been echoed that this public meeting was largely a fiction in terms of meaningful public consultation.

This was the process which was presented to the public. I and many others are of the opinion that the public's input was not accounted for.

The residents became aware on December 23 that council was proceeding, but because of a deadline the public was not given any time in which to address the concerns. We believe a public meeting should've been held, informing the residents that city council intended to proceed with downsizing. At this meeting, we could've set up a series of meetings to deal with the concerns to make the implementation smoother by having plans in place to deal with the impacts. The only input the public had was that of the OMB hearing. I'll just skip right down here and go to the concerns.

I, as an avid follower of the political system, federal, provincial and municipal, never once have seen input jeopardized in order to meet a deadline. This government itself is dealing with this very issue and has been for a while, and I don't see the sacrificing of public consultation in order to reach the set date. If anything, I believe this government has gone well beyond targeted dates to ensure adequate input from the public.

In Kingston, we believe our input to be inadequate and

sacrificed to meet the city's deadline. This statement can be supported for a number of reasons. Kingston, unlike most municipalities, is going through what we believe is a most turbulent period in our political history. The face of our council has been affected considerably, and it's very evident with the bickering among council and the close voting, which is evidence of a very split council.

Our mayor stepped down with a little more than a year remaining in her term. Her successor was selected by draw of the box because of a seven-seven tie. The new mayor left the council seat vacant for a little over a month before the vacancy was filled by once again a draw from the box because of a seven-seven tie. A storm of controversy has clouded over city council as well regarding conflict-of-interest charges on three councillors.

What those opposed are looking for is a chance to offer suggestions and ideas and discussions to reduce and eliminate the serious implications this decision brings. The process the city undertook represents the largest concern among the residents of Kingston.

With the magnitude of this issue, we feel due process was sacrificed to ensure that the city had everything in place by April 1.

The next concern evolves around the added workload of the councillor. This concern alone covers a broad range of concerns. How will this affect the availability of the councillor? If our councillor is ill or on vacation, who will represent us? There will be nine other councillors on which to call, but they will no doubt put their constituents' concerns ahead of ours and all we are doing is adding to their workload.

The availability is a very serious concern, but most councillors hold down a full-time job in order to make a living. With all the council meetings, budget meetings, in-camera meetings, public meetings, committee meetings and special meetings, when is a councillor available for the residents? Moreover, a councillor will have to juggle quite a load in order to create some family time.

Another concern is with regard to saving \$50,000. In my opinion, the added workload and responsibilities would justify the request for a pay raise. Councillors I have spoken with agree. For this reason, the taxpayers will realize nowhere near the expected savings. Many councillors believe these savings will be totally exhausted.

The next concern deals with the negative impact it will have in discouraging potential candidates. In fact, the diversity will change dramatically. Unless you are financially secure, the low-income person would be discouraged because they couldn't compete with the person who has the dollars to spend on a campaign.

1150

We ask the NDP government to defeat this bill solely to allow the residents of Kingston a reasonable time frame—

Mr Mills: What about you guys? Don't you count?

The Chair: Mr Ferguson, please continue.

Mr Joe Ferguson: —in which to address our concerns and develop plans to alleviate the impact. We were robbed of this opportunity, and our only avenue is to

appeal to the people's party for our democratic right to due process. By defeating this bill, the residents of Kingston will be assured of at least two years in which to address the concerns and adequately come up with solutions. If it is immediate savings the city wants, there are many areas to look at which would amount to more than \$50,000.

As it stands right now, these plans do not include the residents. We are on the outside looking to fit in. Our voice has been silenced and it's about time city hall learned a lesson or two in cooperation.

As to the party for the people, the people are asking to be heard. I have always considered the NDP as a compassionate group of individuals who I feel display a great deal of concern for the average citizen. A great injustice has been bestowed upon the residents of Kingston and we now look for this compassion in which to right this wrong.

This issue can be compared with the government's social contract. A lot of groups were greatly affected, but at least they had a voice in the process. Our input was sacrificed to enable the city to have everything in place by April 1 so as to have downsizing in place for the 1994 elections. Now this government is being manipulated to also sacrifice time in order that the city meets its deadline. You are being forced to make a decision as quickly as possible.

The Chair: Have you got just a little bit left?

Mr Joe Ferguson: I've got one minute. You too are being robbed of the valuable time, you must realize, that a decision of this magnitude requires. We only ask your support to allow us due process. When this government asked for our support, you got it. All we ask for is an opportunity to be involved in the process that we, as residents, should be entitled to.

Myself and a number of Kingstonians have very legitimate concerns which deserve to be discussed. Only your support can make this possible. We urge you to kill the bill to give us the time we so deserve. The people's party is being called upon to fulfil its promise.

This is a very big day for Kingstonians. We strongly hope this government will not add to our political injustice by rubber-stamping this bill. The people of Kingston backed this government and only wish to be backed in return. Your approval of this bill will destroy the trust and faith we, the people, have in this government. We urge you to live up to your name and to support the very people this party stands for.

The Chair: Thank you, Mr Ferguson. Mr Good, you had indicated you wanted to say a few words. I have to indicate to you there is not much time. We have five members who want to ask questions and Mr Hayes has to make his comments. So you really don't have an awful lot of time.

Mr Pat Good: Thank you very much, Madam Chairman. I'm glad that you have allotted me a few minutes.

Like previous speakers, I'd like to let you know who I am. My name is Pat Good. I'm a taxpayer in the city of Kingston. I'm a senior citizen. I've lived all of my life,

with the exception of about three years, in the city of Kingston. I've been appointed to four different boards or committees or commissions by four different city councils. I have been president of the city's senior softball league and played in other leagues in various positions.

At the present time I'm serving my third term as a public utilities commissioner. I've served two years as vice-chairman. I've served two years as chairman. This May I'll be 30 years in the real estate business.

Having said that, I hope you'll agree with me that I have my finger on the pulse of the city of Kingston, to their wants, desires etc, etc.

In 1991 I appeared in front of the OMB to have the number of councillors downsized from 14 to eight. The OMB lady who came down didn't say, but I think what she meant was that this was too tough a case for her. Two or three weeks later it was reopened and two gentlemen came down. They spent the full day. They recessed on three occasions. In the final recess they took about an hour to make a decision and, unfortunately for the citizens, they did not agree with the downsizing. I think I had a very good presentation but I was an amateur in presenting it. I had a good presentation but I was a poor presenter.

With some of the comments I've heard here today, as a Kingstonian, if you were my alderman or alderwoman or councillor, I might go to you or I might go to somebody on the far side of the city if I have a complaint or a request or whatever the case may be. The boundaries are not important, because in some cities, as I understand and you would know, there aren't any boundary lines.

As for workload, I think the 14 councillors create work for each other because there are so many: 14 for 60,000 population. In my research in writing to 27 clerks in 27 cities of populations from 40,000 to 104,000, the average was 7.5 councillors or aldermen/alderwomen. So it makes sense that we do downsize to a workable number.

As for time limits, well, there's a time limit for everything. I came up by train today; I have a limit and I have to be on the train by 3 o'clock to get home. We don't take that too much into consideration.

There is the chamber of commerce, where there are over 800 members. They are in favour of downsizing. There has been a committee formed looking for councillors for the next election. A Mr Collom—we've heard his name before—spoke at that, about 150 people in attendance. There have been two meetings. People are interested and he asked, "Should it be downsized?" and those in favour to raise their hands. He didn't bother to ask if there was anybody who wasn't in favour, because it looked like just about everybody, if not everybody, did approve it. I am very much in favour of seeing it downsized.

The city of Kingston has a \$100-million budget. The Kingston Public Utilities, with water, gas, electric and transit, on which I am serving, as I said, my third term, also has a budget of \$100 million and we have four commissioners, not 14.

I know there's a time limit, so with that I'll leave it. Thank you very much.

The Chair: Thank you. I don't really like doing this, but we do have these time constraints. Mr Hayes, do you have any quick comments? Then I want to turn to the members.

Mr Hayes: Yes, very quick. Just to try to clear the air a little bit as far as the ward boundaries are concerned, that's an issue that's dealt with by the OMB and would not be dealt with in this committee. That's my understanding. But the Minister of Municipal Affairs does not object to this application because it is an enabling or permissive piece of legislation.

Mr Mills: I'll be very succinct because of the time. I'd just like to make it very clear in the beginning that this committee is not the NDP government. It's a legislative committee made up of all members, so the decision will be made by the members.

Like some of my colleagues, I've been a member of municipal council for a number of years. The council that I sat on faced the same issue. It's very passionate in some respects, but elected people have to deal with that. I'm of the opinion that people are elected, that they must have the power to make these decisions and deal with them and that when you make those decisions, you face the electorate and they decide whether the decisions that you've made on behalf of the people who have elected you are right.

I am encouraged by the fact that the Ontario Municipal Board conducted a hearing into this and I am absolutely sure that all the arguments that we've heard today—correct me if I'm wrong—were presented to the OMB, which listened to them. Having attended some of those hearings, that forum listens intently to all the arguments and then makes a decision. The OMB has made a decision. They've endorsed and approved a council bylaw to effect the downsizing through a change in the ward boundaries.

I'm not going to get into the argument about the cost or what it does or what it doesn't. I am convinced that the councillors should have the power to make these decisions. The OMB has endorsed it and, apart from a small amendment that I will make to the bill, given that opportunity, I will be supporting the Kingston presentation.

Mr David Johnson: Just a couple of observations: When I was first elected actually there were two aldermen per ward, and had there only been one, I probably wouldn't be here today, because I came second at that time and that was my start.

I certainly congratulate all the people who made deputations today. Municipalities work because we have people such as Mr Fyfe and Mrs Mooney and Mr Ferguson and Mr Good who contribute to their local municipalities. Many good points have been raised. But I must say that I am of the view that this issue should be decided at the local level. I am of the view that the accountability is with the people in the city of Kingston and that's where the issue should be decided and debated. All these excellent points that have been made should be made there to the Kingston council. It's my view, having served as a mayor, after having been elected as alderman and moving on to mayor—and I might say, Mr Fyfe, that

East York, my municipality, the only borough in Canada—and thank you for the history lesson. But it was always my view that the province should keep its fingers out of local issues; the province should give authority and then the people of that municipality, along with their elected representatives, should make the decision. Unless there's some clear case of impropriety or something of that nature, then it really should be up to the local council.

1200

So I understand that there are good points to be made. You've gone through a very unusual circumstance with the mayor stepping down. Perhaps there's a point in that, but my basic support here will be with the bill and to let the people of the city of Kingston make this decision.

Mr Hansen: I think many of the comments have been echoed already and I think it's very important, just like Mr Johnson had said, that I wouldn't want to interfere in municipal politics where if you want to run next time, just say, "If you elect me we'll put two from each ward," to see whether you could win the next election. I think that's one thing you could put on the ballot, "We're different," and I think it would show up.

The \$50,000 might not be a whole lot of money, but I take a look at even the MPPs. I represent 55,000 voters, where maybe Mr Johnson and some of these other members represent over 100,000. We should have 20 more MPPs sitting here at Queen's Park. We've taken a look at the economy here in Ontario. We've had to wind up not going ahead with that right now, and representation, we're talking about 13 and 3%.

I think another thing too is that Mrs Mooney had said she had been 30 years at council. I don't know how many of you sat on council. I think it takes a while to find out exactly the workings. You can watch it, but it's a whole lot different at home, how many calls you're getting.

I was just wondering if the three of you are all together as objectors, or each individual objectors. That's sort of important also.

Mr Fyfe: Mrs Mooney and I are partners.

Mr Hansen: Okay, fine. Just to get an idea. But I think the other thing we have to take a look at is, this has been in the making for two years. This petition is two years. I don't think it's something that just happened overnight and I think it's been well thought out. I think there would have been enough comments in the Kingston Whig-Standard, I believe it is, that people have participated in it. I'm not going to stand here at Queen's Park to prohibit the city of Kingston from moving ahead in maybe what we might call newer times and changes. I'm going to be voting with an amendment to pass this piece of legislation permitting the city of Kingston to go ahead.

Mr Hugh O'Neil (Quinte): Just a short comment for Mr Mills. First of all, Mr Mills mentions that it's an all-party committee, but the NDP has a majority on the committee, so they can always carry whatever they want to do here.

Interjections.

Mr O'Neil: Just to clarify that; not to get political.

The Chair: Let's not get into that.

Mr O'Neil: But I think I have to agree with some of the other comments that have been made. I, as an elected member for close to 19 years, appreciate things that are brought before this committee for passage or to be turned down by certain individuals and municipalities, but I also appreciate the time that is taken by people, that if there is an objection to certain bills, they come here and make their views known.

But again, I think I have to agree with the majority members of the committee, when we see the local MPP supporting it and we see the acting mayor and we see a majority of council, that those are the people who are elected and we have to go along with their wishes. As Mr Hansen said, there is a democratic process which will be coming up very shortly for those who may disagree with the decisions that are taken.

Mr Anthony Perruzza (Downsview): Just a couple of cautions. Although I agree with some of the comments that have been made about local autonomy and how the local areas should make these decisions for themselves, I'm hesitant to believe for one minute that there's going to be a savings. My sense is that while you'll cut some councillors, you'll need an administrator to handle the workload or most of those moneys will probably be redistributed to the councillors who get re-elected, who have to do more of the work.

So in my history on municipal council, I've found—and it's really interesting. I don't know what the population is of East York and how many councillors they have in the city of East York. I imagine they have seven or eight or nine.

Mr David Johnson: Eight.

Mr Perruzza: They have eight councillors in East York. I don't know the population, but I know that in North York I represented a ward that was probably the same size as that of East York, so essentially one councillor doing the same kind of work.

So those kinds of arguments I find a little unmanageable, and it's generally the minority that appeals to a higher decision-maker in these kinds of issues, and I think sometimes the will and the interests of the minority need to be safeguarded as well. Given that the NDP has a majority on this committee, I'm going to be voting against this bill and against what seems to be conventional wisdom here.

Mr Derek Fletcher (Guelph): There's nothing conventional about it.

The Chair: That concludes the members' comments, and we are now after 12 o'clock. I am going to raise the point: Are members prepared to vote?

Mr Fletcher: Yes.

Mr Mills: I have an amendment.

The Chair: All right. I didn't hear anything from this side. Are the members ready to vote?

Mr Fletcher: Yes, they are.

Mr O'Neil: You may have to break the tie.

The Chair: I understand that.

Mr Hansen: Mr Hayes is here.

Mr Hayes: Thank you for your acknowledgement.

The Chair: Shall section 1 carry?

Mr Mills: I have an amendment to section 1.

I move that section 1 of the bill be amended by adding the following subsection:

“Timing

“(2) A bylaw passed under subsection (1) or a bylaw repealing it shall be passed not later than 30 days before the last day for posting notice of the offices for which persons may be nominated in accordance with the Municipal Elections Act.”

I don't think that needs any explanation.

The Chair: Are all members in favour of that amendment? Anyone opposed? Okay.

Then shall section 1, as amended, carry? Carried.

Shall sections 2 and 3 carry? Is there anyone opposed?

Mr Perruzza: I'm opposed, but I'm going to vote against the bill.

The Chair: Okay. Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Is there anyone opposed to the bill? Okay.

Mr Hansen: You better read out the names.

The Chair: Yes.

Mr Perruzza: Could we have a recorded vote?

The Chair: Shall the bill, as amended, carry? All those in favour?

Ayes

Eddy, Fletcher, Hansen, Hayes, Johnson (Don Mills), MacKinnon, Mills, O'Neil (Quinte).

The Chair: All those opposed to the amended bill?

Nays

Perruzza.

The Chair: Shall I report the bill to the House, as amended? Agreed.

Thank you to the presenters. I know these are heartfelt issues and you've taken a lot of your time. You've made a very good presentation today and I thank you for those efforts.

The meeting is adjourned. We'll see you next week.

The committee adjourned at 1208.

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Third Session, 35th Parliament

Official Report of Debates (Hansard)

Wednesday 6 April 1994

Standing committee on
regulations and private bills

Chair: Christel Haeck
Clerk: Tonia Grannum

Assemblée législative de l'Ontario

Troisième session, 35^e législature

Journal des débats (Hansard)

Mercredi 6 avril 1994

Comité permanent des
règlements et des projets
de loi privés

Présidente : Christel Haeck
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
REGULATIONS AND PRIVATE BILLS

Wednesday 6 April 1994

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS
ET DES PROJETS DE LOI PRIVÉS

Mercredi 6 avril 1994

The committee met at 1008 in committee room 1.

NORTH TORONTO CHRISTIAN SCHOOL
(INTERDENOMINATIONAL) ACT, 1994

Consideration of Bill Pr93, An Act to revive North Toronto Christian School (Interdenominational).

The Chair (Ms Christel Haeck): Ladies and gentlemen, I'd like to call the regular meeting of the standing committee on regulations and private bills to order. Our first order of business is to consider Bill Pr93, An Act to revive North Toronto Christian School (Interdenominational). Charles Harnick is the sponsor. Charles, perhaps you could then introduce the applicant after you've said a few words.

Mr Charles Harnick (Willowdale): The applicant is the North Toronto Christian School. They're represented today by their solicitor, Simon Li. The application is quite simply to revive the North Toronto Christian School's charter, which lapsed in 1987, evidently for a default in filing a special notice under section 5 of the Corporations Information Act. The applicants have represented that this default was inadvertent. They've done the necessary advertising. It is merely a matter of reviving their charter that brings us here.

The Chair: Any comments from Mr Li, first of all?

Mr Simon Li: Without repeating the information already contained in the compendium of background information, I wish to make only three points in summary, if this is the appropriate time to do that.

The Chair: It is.

Mr Li: The first point is that as indicated by the honourable Mr Harnick, the default was inadvertent. Interestingly, at the initial notice filed under the Corporations Information Act, while it has not changed the head office address, it did indicate the principal place of business as 50 Page Avenue in North York, which has continued to be the principal place of business for the past 12 years. Unfortunately, legally speaking, that is not the proper head office address and notices were not sent there, including the notice of default and the notice of dissolution. When it was duly dissolved in 1987, they didn't know about it and they continue to operate to this date.

The second point is that actually the revived charter makes no prejudice to any party that we know of and I understand that we have received no objection from any party except that the public trustee indicated it wishes us to file a list of documents, which we have duly filed, and we have not received any further objection afterwards. Actually, in addition to not being of prejudice to any

party, this act, I would respectfully submit, would be a benefit, a significant segment of the community.

This would be my third and last point: The school has continued to operate and has thrived from the day of its inception to this date, and it has a school of close to 500 pupils and is now up to grade 10 and will continue to expand. Everything was looking good and all the parents were happy until, of course, we heard that it was dissolved.

I respectfully request your favourable consideration of this act.

The Chair: Before I turn to Mr Hansen, I do have the obligation to ask if there are any other interested parties who wish to come forward. Seeing none, Mr Hansen.

Mr Ron Hansen (Lincoln): I'm going to support this bill to revive the North Toronto Christian School and I have no questions.

The Chair: Mr Hayes, as the parliamentary assistant, are there any concerns on the part of any ministry?

Mr Pat Hayes (Essex-Kent): Actually, we have correspondence from the Ministry of Revenue, which has no objections, and the Ministry of Municipal Affairs does not object to this bill.

The Chair: I know Mr Jordan has a motion to make, but I believe that probably would be better after the voting has taken place. Are members prepared to vote?

Interjections: Yes.

The Chair: Shall sections 1 through 3 carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

I'm sorry, the clerk has advised me we have missed one part, and that is, shall the preamble carry? Carried.

Mr Leo Jordan (Lanark-Renfrew): I move that the committee recommend that the fees and the actual cost of printing at all stages and in the annual statutes be remitted on Bill Pr93, An Act to revive North Toronto Christian School (Interdenominational).

The Chair: Are there any votes in opposition? Seeing none, that motion is carried.

I'd like to thank you, Mr Li, and Mr Harnick.

Mr Harnick: Thank you very much. I appreciate this.

CAPITOL THEATRE AND ARTS CENTRE
(WINDSOR) ACT, 1994

Consideration of Bill Pr71, An Act respecting The Capitol Theatre and Arts Centre (Windsor).

The Chair: Our next order of business is Bill Pr99,

but not seeing Mrs Akande at this point, let us move on to Bill Pr71, An Act respecting The Capitol Theatre and Arts Centre (Windsor). Mr Dadamo, as the sponsor, would you please introduce the applicant and if you feel like making a few opening comments, feel free to do so.

Mr George Dadamo (Windsor-Sandwich): I'll only take a half-hour.

Mr Derek Fletcher (Guelph): You'd better not.

Mr Dadamo: Thank you to the committee members. Good morning. I'd like to introduce Ed Agnew, who's president of the Capitol Theatre and Arts Centre in Windsor, and Eleanor Paine, who is the director, a couple of people we have forged a relationship and partnership with in the last couple of years. They run a centre that needs help and has needed help. The Capitol Theatre was built in 1926 and we've given assistance on a couple of occasions.

We feel it is extremely important and vital to the downtown core of the city of Windsor, with other projects that they'll work hand and hand with. We believe strongly that they'll thrive again, and they are. There's a lot of work being done. We'd like the partnership to continue and I wholeheartedly support Bill 71, 100%.

The Chair: Mr Agnew or Ms Pain, if you'd like to make any comments.

Ms Eleanor Pain: I'd just like to take a moment of your time to give you a little background on the Capitol Theatre and Arts Centre in Windsor. It was a building that was slated for demolition by its owner at the time, and a group of citizens in the community came together and have worked unceasingly for the past three years to create a viable place for the community arts groups to do their work in Windsor. With the help of the city of Windsor and the province of Ontario, we were successful in purchasing the building on September 1, 1993.

Mr Ed Agnew: Just to emphasize the support we receive from the community, the city council pledged \$1.83 million to the project, the province of Ontario has committed \$2.87 million and the fund-raising effort by the board of directors is at \$500,000. The federal government has been asked and we're very close to receiving approval on the \$2.4 million that is necessary to complete the restoration-renovation.

The pledge we made to both the province and the city was that we would operate this facility on a break-even position. I think that's very, very important these days when new facilities are opening, that they don't become a burden upon the taxpayers. We have pledged that and to date we have succeeded. Our year-end is June 30, and as at June 30 we will be in a break-even position.

However, that is not taking into account the \$36,000 in municipal taxes we would normally have to pay. The council of the city of Windsor understood this as well and agreed to support our application for tax exemption.

It's a community arts centre. We're trying to involve and we are involving the entire community, from the school children up to the senior citizens to the symphony attendees. We have to keep our prices affordable. We have to keep them affordable to those people; we have to

keep them affordable to the arts groups that use the facilities.

We have three theatres within this one theatre, and it's a beautiful facility. It was designed by the same architect who designed the Pantages Theatre, so you understand the quality. It would be a shame to see that demolished, and if we were not successful in maintaining this facility on a break-even position, the whole project would be in danger. So we have taken on that commitment and we will succeed on that basis. However, we do need this exemption in order for us to do that.

The Chair: Thank you, Mr Agnew and Ms Pain, for your introductory remarks. I will then turn to our audience behind us. Are there any other interested parties who wish to come forward about this bill? Seeing none, I will turn to Mr Hayes and ask if there are any ministry comments you'd like to pass on.

Mr Hayes: I think due to the fact that Mr Agnew and Mrs Pain struggled to come up north from the Banana Belt in Essex county and their efforts that they have made, and of course the strong support that Mr Dadamo and Mr Lessard have made here towards the Capital Theatre, we have no objections to this bill.

1020

The Chair: Are there any questions? I saw some from over here.

Mr Gordon Mills (Durham East): I'd just like to go on the record as being supportive of this application. I commend the city of Windsor and all the people involved with bringing theatre and arts to that fine community. I've had the chance to visit on a number of occasions. I'm very glad to hear, as a senior citizen, that maybe there's—

Interjection: Parts for you to play?

Mr Mills: No, that's going to be recognized in the admission charges.

Interjection: He's looking for a freebie.

Mr Mills: Because we're always looking for those benefits. So anyway, well done.

Mr David Johnson (Don Mills): I too congratulate the Capitol Theatre and Arts Centre in Windsor. They seem to be well received and they seem to be successful. I wish them good luck.

To me, one of the important criteria in this whole matter is the response of the city in question. Obviously, the city of Windsor is behind you and is supportive of this exemption, and supportive to the extent of giving you quite a healthy grant, too. So with that support from the local municipality, I too will support this bill.

Mr Wayne Lessard (Windsor-Walkerville): I just want to indicate my support for the project as well and indicate that Mrs Pain is actually a volunteer executive director on the board—all the board members are volunteers as well—and has received acclaim among her peers and had an article written about her in *Chatelaine* magazine as well.

I know that Gord is looking for some sort of a special break when he comes to visit and we could probably provide that. If he wants to buy his own chair there, he

can do that.

The Chair: As someone who is always interested in matters heritage, I'm sad to say something that we might have been able to work on in St Catharines like this got burned down. I'm glad you're ahead of the game and showing the rest of us a very good example.

After my editorial remark, I will now turn to the members and ask if they are prepared to vote.

Hearing no objectors to that, shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Mr Hansen: I move that the committee recommend that the fees and the actual cost of printing at all stages and in the annual statutes be remitted on Bill Pr71, An Act respecting The Capitol Theatre and Arts Centre (Windsor).

Interjections: Agreed.

The Chair: I hear a lot of "agrees." Are there any objectors? Hearing none—

Mr Mills: Why can't we be like this in the House?

The Chair: I know. Hearing none, I would say that unanimously this committee supports your endeavour. Thank you very much for making that long trek from a very pleasant part of the country.

Mr Agnew: It was our pleasure. Thank you very much.

EDEN COMMUNITY HOUSE OF TORONTO ACT, 1994

Consideration of Bill Pr99, An Act to revive Eden Community House of Toronto.

The Chair: Mr Fletcher, you'll be helping out on Bill Pr99, An Act to revive Eden Community House of Toronto.

Mr Fletcher: On behalf of Zanana Akande, I'd like to introduce Bill Pr99, An Act to revive Eden Community House of Toronto. With us today is Mr Robert Jenkins.

The Chair: Mr Jenkins, perhaps you'd like to make some opening remarks.

Mr Robert Jenkins: Briefly, I'd like to just indicate that the purpose of this community house is a halfway house for psychiatric patients. The corporation fell into arrears with the filing because notices were sent to the address of a director who had moved. The organization is funded by the province and it's extremely grateful for the support it receives. That support has been ongoing for a number of years. Unless there are any questions, that's all I have to say, Madam Chair.

The Chair: Thank you, Mr Jenkins. I will ask if there's anyone here who has some concerns about this bill. Seeing none, I would ask Mr Hayes if there are any comments from any of the respective ministries.

Mr Hayes: No. We have a piece of correspondence here from the Ministry of Revenue. They have not objected. The Ministry of Municipal Affairs does not object to this bill.

The Chair: Are there any questions or comments?

Mr David Johnson: As in the previous application, Eden Community House is a very worthwhile cause and I would be happy to support their cause in this. I know that they do a lot of good work, and that this is inadvertent. We're pleased to support it.

The Chair: Are there any additional questions? Seeing none, I would ask if members are ready to vote. Agreed.

Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Mr Hansen: I move that the committee recommend that the fees and the actual cost of printing at all stages and in the annual statutes be remitted on Bill Pr99, An Act to revive Eden Community House of Toronto.

The Chair: I have to ask if there's anyone opposed. Seeing none, unanimous consent. Thank you very much, Mr Jenkins, for your time, and thank you, Mr Fletcher. Now we have Mr Cooper.

Mr Mike Cooper (Kitchener-Wilmot): Due to the weather, I believe the solicitor from the city of Kitchener is probably delayed somewhat, so could I ask for a 15-minute recess?

The Chair: You may. I believe there are no objections at this point.

Interjections.

The Chair: Excuse me. Order, please.

Mr Mills: What is going to be the procedure if in 15 minutes' time elapsed, the solicitor hasn't shown? Are we going to go ahead?

The Chair: Is there anyone else here who is an applicant at this point? I would like to turn to the clerk for some advice in this regard.

Mr Mills: We have all the material, the arguments. I would think that we could use the 15 minutes to read that and then go ahead when the solicitor doesn't come.

The Chair: Let me turn to the clerk and ask because I'm not sure—

Interjections.

The Chair: Excuse me. There are a number of conversations here and the echoes in this room are such that it is distracting. Thank you very much to all members. Ms Grannum will give us an idea if we can move ahead without an applicant.

Clerk of the Committee (Ms Tonia Grannum): I believe we do need an applicant to go ahead.

Mr Mills: So if he doesn't show up, we're going to wait till what time?

The Chair: We may have to defer this to another day.

Mr Mills: Okay.

The Chair: We will recess, then, for 15 minutes, hoping that the applicant manages to get through the weather.

The committee recessed from 1027 to 1038.

CITY OF KITCHENER ACT, 1994

Consideration of Bill Pr95, An Act respecting the City of Kitchener.

The Chair: Ladies and gentlemen, I would like to call us to order again. I want to say welcome to Mr Wallace. I understand the weather was a bit of a challenge.

Mr James Wallace: Yes. Thank you very much for waiting. I'm much obliged.

The Chair: The rules of doing this, I am required to turn to Mr Cooper and ask if he could, as sponsor, make a few opening comments and then turn to Mr Wallace. For the record, for Hansard, I should say that the order of business is Bill Pr95, An Act respecting the City of Kitchener.

Mr Cooper: It's my pleasure to be here to sponsor Bill Pr95, An Act respecting the City of Kitchener. Basically, what this bill is to do is to regulate the sale and storage of fireworks, a lot of regulations around the fireworks. I know this has been an issue that's been around for a number of years. A lot of people would like to see fireworks totally banned, but if we're going to have them, I think we should have some good regulations in place.

I'd like to thank the committee for its indulgence in waiting for the solicitor to show up because of the weather. I understand there are some concerns around this bill and I'm sure he's quite ready to defend the position of the city of Kitchener. So I'd like to present Mr James Wallace, the solicitor for the city of Kitchener.

Mr Wallace: Briefly, I could put the position on the bill such that the problem arose with respect to someone coming into a parking lot at the main entrance to Kitchener and setting up a semitrailer and then dispensing fireworks from that trailer. The problem we have is that we have nothing to prohibit that. Our bylaw allowed the sale of fireworks within six days prior to May 24. The person came and did get a hawker's and pedlar's licence, complied with the bylaw and so on.

Nevertheless, council was faced with protests from local businesses, one in particular, that distributed fireworks to all of the variety stores in town. There are other competing fireworks dealers of course, but this one gentleman came to council and convinced it that this was a problem because you had someone basically who was sort of skimming the cream off the top of the business for that particular time. What it did was it put at a disadvantage the people who are there all the time for the long term, the variety stores and such, who pay business tax and real property tax.

In the material that I supplied you with, and I just point out that a lot of money apparently changes hands on this, you'll see in one of the minutes of the meeting of the council of March 22, 1993, a submission was made by the gentlemen, Mr Eve, president of H. Fokes and Co. "In response to a question from Alderman Lorentz, Mr Eve advised that the fireworks operation at issue would generate approximately \$100,000 over a five-day period," so there's a lot of money involved.

Basically, I guess council could see that this is, in a way, notwithstanding that the person had paid—actually,

their licence fee under the hawkers and pedlars was \$350 for a five-day period. So in order to sell for six days, in accordance with the fireworks bylaw, they actually paid \$700 and didn't bat an eye.

So council, and you can see the discussion in there, wished really somehow not only to charge a fee reflective of what this was doing, I think, in a way trying to be restrictive—I make no bones about it—\$1,000 for the person who sold the fireworks possibly, as I read it, in addition to the hawkers and pedlars. So you're now talking about \$1,700 for that six-day period.

Again, as you'll see in the material file, I've basically pointed out that it could be construed as prohibitive and, as I say, they didn't bat an eye about that, because that's what council in effect wants. They want to make, to a certain extent, a certain amount of protection for the local business.

In addition to that there were concerns—I talked to the fire department about it; they are concerned about people driving in parking lots and simply unhitching a semitrailer and starting to sell fireworks. You'll notice that I asked for regulations for clearance for services, access, all that kind of thing, so in effect we'd have a site plan for it. Their concern was mainly to promote the safety of whatever is happening there.

I think a lot of municipalities are seeing now—and this I can put forward, I think, as a general feeling—that the downtowns and the main streets of the cities are deteriorating. I guess they see this as another encroachment on that and some way of protecting established businesses. I appreciate that there are other reasons why downtowns do deteriorate, but certainly Kitchener, by locating its new city hall right on the main street, is trying actively to regenerate the downtown. I think this is part of the climate in which this comes forward.

I just point out that they wanted to license and regulate the vendors of fireworks and charge a licence fee to the vendors, but they also want to charge a licence fee of \$1,000 to the person who makes their parking lot or whatever available to the trailer. In this instance, it would have been Lulu's; the example I am using is Lulu's nightclub that had the big parking lot on King Street, Highway 8, available.

So you have that imposition of a \$1,000 licence fee on the vendor and on the provider of the premises; regulations for the safe storage, handling and possession; and also the ability, if council so wishes, to prohibit the sale of fireworks absolutely within defined areas of the city. I think, in a nutshell, I've covered all the aspects of that.

The Chair: Thank you, Mr Wallace. My next order of business would be to ask if there are any other interested parties who would be present, and seeing that the room is virtually empty, we'll—

Mr Hansen: I'm here.

The Chair: I'm thinking of our audience; there is no one there, so I would take it that there are no objectors. I have, at this point, two questioners; first Mr Mills and then Mr Hansen.

Mr Mills: First of all, I'd like to thank you for coming here this morning, despite the adventure to get

here, and I'd also like to tell you that I have considerable empathy with what you're facing in Kitchener. In the communities that I represent, and there are several sort of semiurban centres, we're plagued with just the situation that you're talking about. Just prior to Victoria Day a huge trailer will appear on the parking lot of a garage or a service station and dispense fireworks to all the folks who are travelling to cottage country, thereby taking their livelihood from the people who pay taxes, local property taxes and business taxes.

Also, I'd like to say that this is expanding into flowers. In my area on Mother's Day, for instance, every service station seems to be selling flowers, much to the chagrin of the people who pay property taxes. Without prolonging the debate, I have empathy and I am going to support this. But I have a motion to make, Madam Chair, at the proper time on behalf of the Solicitor General, who just wants to put some amendment in there to cover the ministry's position. But other than that, I have a great deal of empathy with you.

Mr Hansen: I notice that on a motion by one of the councillors it says this special legislation would apply to all hawkers and pedlars and not to the sale of fireworks alone. So this is going to cover all sales in Kitchener. I've got some more to say, but would you mind responding to that?

Mr Wallace: With respect to that, that was the initial discussion. As in other material filed, when they finally got through it all they said, "No, let's confine it to fireworks." In other words, there was a debate, there has been concern, as echoed, about flowers before particular days, and there are other concerns.

They felt, though, that in this particular instance—and if I can refer you to it, it was in council of April 26, 1993:

"That the city solicitor make application to the province for special legislation that would allow the city of Kitchener to license, regulate and prohibit the sale of fireworks with respect to the specific location, daily sales licences and, further, the above application also include authority to charge a fee of \$1,000 for this licence to be issued to the fireworks vendor and an identical fee for the licence to the owner of the property used by the fireworks licensee."

So after all the debate was resolved, that's what it came down to. Those are my instructions.

1050

Mr Hansen: Okay, fine, because as Mr Mills has stated with these flowers, it's a real issue in our area. The issue is that we have the largest number of greenhouses in my riding alone, yet all these flowers that are sold on the corners, which are within eyesight of these greenhouses, are coming from Quebec. So the local growers are losing out quite a bit.

I do have one concern and I think maybe I'd like to put it on the record that in our area the Lions Club sells fireworks to make money, and Christmas trees at Christmastime. So this \$1,000 to the Lions Club would be quite expensive, yet I don't know if there's any way of going around the bylaw to the point that a garage would say,

"It's part of my sales and I'm going to let the Lions Club with the trailer out there."

It comes to the point also that a place like the Sleep Factory brings in two large trailers with surplus mattresses and beds and sometimes other things that they normally don't sell. It's something to look into when you start passing other bylaws to expand it, because it could hurt the businessman who has a large parking lot that brings in these special sales. With the fireworks here, could you comment on that, the Lions Club and what would happen to some of these charitable non-profit organizations?

Mr Wallace: I would suggest to you that, if what is represented to council that it would make \$100,000 over five days, a fee of \$1,000 for the Lions Club would be peanuts for the kind of money we're talking about and probably well worth their while. If it is, as represented to council, \$100,000 for five days and they're there for six days, they're making, presumably, over \$100,000 in a week. That's what he alleges in the representation made by the distributor.

Mr Ron Eddy (Brant-Haldimand): I certainly support the application to pass the bill as well. I realize the problem. Could you refresh my memory on whether it is the Municipal Act that now authorizes municipalities to control fireworks? There's something that's too general.

The Chair: If you could introduce yourself for the purposes of Hansard. Nods are hard to pick up as well.

Ms Margaret Wood: Margaret Wood, Ministry of Municipal Affairs. Yes, at the present time there is some regulatory authority for municipalities in the Municipal Act that allows them to regulate fire vendors, but it's not as comprehensive as what the applicant is thinking.

Mr Eddy: Thank you. I agree with the application.

Mrs Ellen MacKinnon (Lambton): The honourable Ron Eddy took the words right out of my mouth, because I thought there was provincial—I guess it is provincial, but it's in the Municipal Act, because I know we have that at home. If \$1,000 doesn't discourage them, what in the world will? If you want \$1,000 from whoever pulls the transport in, I don't think they'll even blink twice. If you want \$1,000 from Lulu's or whoever, I don't think Lulu's is going to blink twice. I just wonder at that fee, if it's even steep enough. I mean that sincerely. I sympathize with what you're trying to do here, because there's also the fire hazard and the danger that's involved, in my opinion, anyway.

Mr Jordan: Just following along with what my colleague Ron Eddy has said there regarding the Municipal Act, this product has to be marketed right across the province in every community. Would it not be time for the minister to look at the Municipal Act to revise it in such a way?

Mr Fletcher: It sounds like a good idea to us.

Mr Jordan: This bill is for the city of Kitchener, but I know in my riding there are several towns that experience the same problem. It doesn't seem sensible to have each community coming before us to give local councils the authority to deal with it.

The Chair: I know Mr Hayes has taken your concerns to heart and will communicate same to the minister. Mr Hayes, on behalf of the ministry do you have any comments to make on this particular bill?

Mr Hayes: Yes, I do. The ministry certainly understands the situation the city of Kitchener is in, but there are a couple of things of course we'll be talking about in an amendment when the time comes. The thing is that, as we have done on several other bills here in the Legislature, we felt that there should be reasonable cost, administrative cost, for any licence fees, and therefore we will be presenting an amendment to this bill.

There are other concerns dealing I guess with the free enterprise system of—like I said, I can understand where you're coming from, but at the same time I guess our concern is, are all people going to be treated equally? In other words, if someone else needs a permit or wants a permit to sell fireworks, are they going to be charged the same amount of money as you would charge this other individual? That is a concern.

So one of our amendments, when we get to that, will be that there be a maximum of a \$1,000 fee. I wanted to make that comment and maybe you can respond to it, because I think it's very important.

Mr Wallace: Yes. I think council, regardless of the costs involved of administering the licence fee, wanted to be able to charge \$1,000, without even talking about the cost. When they were debating this, I said to them that they must be careful, because they wanted to do it, in doing this without special legislation, because you don't want the courts to decide that what you're imposing is so high as to be prohibitory. In response to that, they said, "Well, we want \$1,000," and as far as they're concerned, that was their reply, not tying it to what the administrative costs were at all. If they were a few dollars, they did not want to have their hands tied in that regard; they wanted to be able to have \$1,000.

Mr Hayes: Just one question, I guess, and of course talking to the ministry staff it's a question I asked them with this bill: Let's just use the example if I own a variety store in Kitchener or wherever and I want to sell fireworks. Am I going to be treated differently than someone else who wants to sell in another location?

Mr Wallace: You won't be subject to the licence fee, because you're paying real property taxes and business taxes. Where we propose to impose this is when it's someone with a hawkers and pedlars, or, as it says—I forget now—the daily location special sales licence. I've got it backwards probably, but specific location daily sales licence, which our licensing supervisor administers. In other words, if somebody comes from out of town to sell fur coats or to sell leather coats or whatever, we've been doing this for years. We have been imposing this type of licence under our hawkers and pedlars provisions in the Municipal Act, and frankly quite successfully.

May I just say that municipalities are deluged with people coming wanting to be hawkers and pedlars from out of town, and it's all we can do to keep up with them and charge the licence fee. We had someone come, just as an example, and set up a truck opposite the K-W hospital on King Street and have uniforms for people to

try on right on the sidewalk out in front of the hospital. Until they're chased away, this is the kind of thing that happens. So we've found this is a very, very effective way of basically protecting local people, and I think it's a legitimate concern.

I guess it depends on how you view the economic base of a community. If you decide the economic base of the community is worth preserving, then I suggest these are proper measures you can take.

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I think in these circumstances, council wasn't thinking about the cost of administering the licence. They were looking at, "We want \$1,000"; to be able to say, "If you want to do that, it's going to cost you \$1,000," just as they have with the sale of leather coats, someone who comes in to a Holiday Inn or whatever and puts on a sale. They've been trying over the years, and I will say that when I came to Kitchener over 20 years ago, they had this in place then and it has been very effective. I highly recommend it to other municipalities, but I guess I'm prejudiced.

Mr Hansen: Getting back to something the parliamentary assistant has said, and I think I sort of brought it out earlier about Sleep Factory, what if I own a variety store? I've normally sold firecrackers in the store in previous years and I've still got them inside the store, but I bring a large trailer in beside the store. Would that wind up classifying, because I'm the owner of the store and I have purchased those firecrackers, that I would not need a permit? When you were discussing about traffic patterns, that would change a traffic pattern of going into that mall or whatever.

Mr Wallace: I'm certain we'd take the position that if it otherwise complied with city regulations such as fire and access and so on and could be accommodated on a vacant lot beside the store and everything was safe about it, that would probably be allowed without the hawker—because it's not a hawker; it's an established business.

As an example, we have a proliferation—I shouldn't say a proliferation; nothing like Toronto. We have all kinds of people coming to sell hot dogs and hot dog stands everywhere. So we licensed those and we've tried to keep that down to a dull roar by having as few as possible, because there again you have restaurants on the main street, one of them which sells nothing but hot dogs, as a matter of fact, that see this as competition.

Under the hawkers and pedlars licensing provisions, we've attempted to licence those and keep them. At that stage, a restaurant owner said, "Well, what are you going to do to me if I put a hot dog stand out in front of our restaurant?" We basically said, "As long as you agree with us about signing an agreement for encroaching on the sidewalk, which is immediately in front of your store, no other problem." So we don't charge them a licence fee because again the theory is that they're paying real property taxes, business taxes and they're part of an establishment. They're not here today and gone tomorrow. That's the situation.

Mr Hansen: This is the first time that I've been involved in a particular bill like this. Sometimes there are

ways of getting around, where you can say it's the person who owns the store, it's their load, but really it's someone else's load of firecrackers, like on a commission basis. You know, it's covered that we don't see you coming back next year and saying, "Gee, that was a good bill we passed but we forgot to put that in."

Mr Wallace: May I just comment? We're not omniscient. What happens is very much what you say. We find that we can't protect ourselves against fraud, but we try; we do our best. We suspect a lot of things, but we can't prove some of them.

Mr Hansen: Okay. I must have a mind that thinks the other way at times, but I think you have to, sitting on committee on how things take place and it's covered.

The Chair: Mr Jordan, you look like you have your question ready.

Mr Jordan: I'd just like to ask Mr Wallace, are the surrounding municipalities in agreement with you?

Mr Wallace: Traditionally what has happened is that Kitchener, which has the larger population in the area, has had this, as I say, prior to my ever coming to the city over 21 years ago. The city of Waterloo has been much more relaxed about it and basically never bothered with hawkers and pedlars, but I understand from our superintendent of licensing that they've been in touch with our city to see what they can do because they're now having problems with some of the same things.

Mr Jordan: So they could be in here asking for the same type of legislation.

Mr Wallace: I don't know; it depends how aggressive they are. As you appreciate, they're about one third the size of Kitchener. Cambridge, I believe, has licensing that it's invoking too. I'm not too familiar with how far they've gone with it, but I do know they have licensing much more than the city of Waterloo.

Mr Jordan: I was also concerned about the parking in the rural township, just beyond the fringe. If their price is right, people will go there and buy their product. But, as you say, you can't block everything; you can only try.

The Chair: Mr Hayes has a couple more questions, Mr Wallace, so thank you for your indulgence.

Mr Hayes: I just want to make a few points. It's not just out to defeat your bill, but at the same time, when you talk about other vendors who are paying taxes and things of that nature, they're also receiving services from the municipality and I think that should be made clear.

The amendment that we have here, and like I said, I'll read it soon, when we talk about reasonable cost of administration and also you'd be able to put in the cost of enforcing the bylaw, so I think that would be very important. Like I said, the ministry will go along with this bill but we would go along with this bill only if this amendment is passed.

The Chair: Are there any further questions or comments? Seeing none, I'd like to ask the members if they are ready to vote.

Mr Mills: We're ready.

The Chair: Are you ready to vote? Very good. Mr Mills is always eager to vote.

Mr Mills: I'm always eager to get on with the process.

Mr Hansen: I have an amendment to clause 1(2)(e).

I move that clause 1(2)(e) of the bill be struck out and the following substituted:

"(e) fix the term of the licence which may vary with each licence; and

"(f) establish licence fees to cover the reasonable costs of administering and enforcing the bylaw, to a maximum of \$1,000."

The Chair: Shall the amendment carry? Carried.

Mr Mills: I have another amendment.

I move that section 1 of the bill be amended by adding the following subsection:

"Conflict

"(4) If there is a conflict between a bylaw passed under this act and a regulation made under the Fire Marshals Act, the one that is more stringent prevails."

Mr Fletcher: I have a question. "The one that is more stringent prevails": Who determines the one that is more stringent?

Mr Hayes: I guess the courts would do it, but I think if you read any kind of act, I think the conditions that have to be met, would be pretty well spelled out. It's like a collective agreement in the workplace where you come from, Mr Fletcher, versus the Occupational Health and Safety Act, you see. If one is stronger than the other, that's the one we go by.

Mr Fletcher: Which would result in interpretation. That's why I was wondering, because "the one that is more stringent" does come under interpretation as far as I am concerned, until someone makes a decision on that interpretation.

Ms Wood: Yes. I guess the courts would ultimately determine which is more stringent, if it's not obvious.

The Chair: Are members then in favour of this amendment relating to subsection 1(4)? Any opposed? That is carried.

Shall section 1, as amended, carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report the bill to the House? Agreed.

Mr Cooper: I want to make a brief comment on one of the recommendations made by Mr Jordan about this being province-wide, I would like to once again state that the city of Kitchener and the region of Waterloo are once again leading the charge in progress for the province.

Interjections.

The Chair: Oh, Mr Cooper, I don't think you should be this provocative. In any case, I'd like to thank Mr Wallace for giving us some food for thought and thank you for your time.

Mr Wallace: Thank you, committee.

The committee adjourned at 1111.

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- Perruzza, Anthony (Downsview ND)
- Ruprecht, Tony (Parkdale L)

**In attendance / présents*

Substitutions present/ Membres remplaçants présents:

Cooper, Mike (Kitchener-Wilmot ND) for Mr Perruzza

Also taking part / Autres participants et participantes:

Lessard, Wayne (Windsor-Walkerville ND)

Wood, Margaret, policy adviser, local government policy branch, Ministry of Municipal Affairs

Clerk / Greffière: Grannum, Tonia

Staff / Personnel: Klein, Susan A., legislative counsel



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of Ontario**

Third Session, 35th Parliament

**Assemblée législative
de l'Ontario**

Troisième session, 35^e législature



**Official Report
of Debates
(Hansard)**

Wednesday 13 April 1994

**Journal
des débats
(Hansard)**

Mercredi 13 avril 1994

**Standing committee on
regulations and private bills**

**Comité permanent des
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
REGULATIONS AND PRIVATE BILLS

Wednesday 13 April 1994

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS
ET DES PROJETS DE LOI PRIVÉS

Mercredi 13 avril 1994

The committee met at 1007 in committee room 1.

The Chair (Ms Christel Haeck): I would like to call the regular meeting of the standing committee on regulations and private bills to order.

CITY OF BURLINGTON ACT, 1994

Consideration of Bill Pr83, An Act respecting the City of Burlington.

The Chair: Our first order of business is to consider Bill Pr83, An Act respecting the City of Burlington. I'd like to welcome our sponsor, Mrs Sullivan, if you would make a few opening remarks and introduce the applicants, and feel free to begin.

Mrs Barbara Sullivan (Halton Centre): I'm pleased to sponsor Bill Pr83, An Act respecting the City of Burlington. To be brief, with respect to the content of the bill, I am convinced that this bill will assist us in a major way with respect to heritage conservation in our community.

I'd like to introduce to you Gordon Grechulk, the deputy city solicitor of the city of Burlington, who will introduce other presenters and discuss the specific contents of the bill.

Mr Gordon Grechulk: Thank you, Mrs Sullivan. Appearing with me as a delegation today, to my immediate left is Mrs Janis Topp, who is the chair of the Burlington Local Architectural Conservation Advisory Committee. Mrs Topp has been a member of that committee for a number of years. I should add that Mrs Topp also lives in a designated heritage house in Burlington.

To my far left is Mr Dan Mousseau, professional engineer and the chief billing official for the Corporation of the City of Burlington, and he is also a director of the Ontario Building Officials Association.

I hope that the three of us may be able to answer any questions that the committee may pose. I just have a very brief presentation on the bill, if I may.

The bill that is before you is not new legislation. It is not any type of a precedent for municipalities in Ontario. It basically is similar to at least four other municipalities' legislation that I am aware of at the present time: The city of Toronto passed similar legislation in 1987; the town of Oakville in 1991; the town of Markham in 1991; and the town of Vaughan in 1992.

The LACAC committee, if I can use the short form, felt that in Burlington a number of historical buildings were being lost and felt that something should be done to strengthen the legislation a bit. I would point out that before the members we have presented a very short history of the latest building in Burlington that has been

torn down. It's the beautiful and historical Lakehurst Villa on Lakeshore Road. This building was demolished in 1991. I have given the clerk a picture, if the Chair wishes to pass that around.

Just very briefly, this residential building was built for W.D. Flatt, who was a builder in Burlington. I've done many title searches in Burlington and in many cases they start off with a plan of subdivision put on by W.D. Flatt. You can see in the write-up, Mr Flatt was also instrumental in establishing the Toronto-Hamilton Highway 2, which is now known as Lakeshore Road.

The bill itself strengthens the Ontario Heritage Act in two respects, I submit. The first is that an individual who wishes to tear down a heritage building must have a building permit before the demolition occurs. The feeling is that a person should have a purpose for the property before one demolishes a heritage building.

The second additional point in the legislation is that the proposed new building must be constructed within a period of two years, although there is some relief built into the bill which allows for a request to extend that time period, if necessary.

That's my presentation. We're open for any questions from the committee.

The Chair: I would like to follow the usual procedure here, and that is to ask if there are any other interested parties who wish to come forward at this time to make a presentation. Seeing none, are there any questions?

Mr David Johnson (Don Mills): I'm just curious. Having come from the municipal scene not too long ago in the borough of East York, I'm aware that we had in East York designated two or three properties. I can think of Todmorden Mills. The Todmorden Mills historic site has been designated, along with some buildings on Bayview Avenue, older buildings with particular architectural significance. They're privately owned. I'm just wondering how it is that we were able to do that without the special legislation. Apparently, the city of Burlington requires special legislation to accomplish the same thing.

Mr Grechulk: I'm not familiar with the facts of that, but my position is our legislation doesn't really take away from the Ontario Heritage Act as it exists now; we're just supplementing it. I'm assuming your municipality probably just acted under the Ontario Heritage Act.

Mr David Johnson: What is it about the act at the present time that you find is a problem? Certainly some municipalities are able to proceed under the act the way it is today. Why is it that you find the current act inadequate?

Mr Grechulk: Perhaps I can address that question to Mrs Topp, who can explain it a little more.

Mrs Janis Topp: The current heritage act allows for properties to be designated as heritage properties, which sounds like is probably the case there. We also have that. However, if one of those buildings is then owned by someone who wants to demolish it, the only recourse is that the issuance of the demolition permit can be delayed for 180 days. That's the total extent of it. What the bill that we are presenting here asks is that if someone wants to demolish a designated heritage building, they also have to have in place all the appropriate zonings and permits to proceed with what their plan is.

Mr David Johnson: I see. Of course, if they have that in place, then they're still empowered to proceed with the demolition. Is that your understanding?

Mrs Topp: Yes.

Mr David Johnson: Now, one of the provisions that, I must say, we've had some correspondence about is with regard to the penalties in this particular bill. I'm sure you're aware that there has been concern registered with regard to the level of the penalty. I wonder what your response is. Reading from the bill, there's a fine of up to \$1 million or imprisonment—that's pretty stiff—for a term of not more than a year if someone demolishes without the proper consent. There are many who say that is beyond reason. I wonder what your response to that is.

Mr Grechulk: I believe we have two comments on the fine. The first is that the fine is up to \$1 million, so it's certainly up to the courts to make a determination as to what that fine should be in the appropriate circumstances. The other comment is that the fine we've incorporated in this bill is consistent with all four municipalities that I previously mentioned. We have not deviated from the fine provision. We felt it was more appropriate to try to keep this legislation consistent with the other municipalities.

Mr David Johnson: Do the other municipalities have a provision for imprisonment as well?

Mr Grechulk: Yes.

Mr David Johnson: I'm not aware of it, but you're saying they do. Okay, I guess those are all the questions I have.

Mr Leo Jordan (Lanark-Renfrew): Coming back to the same question, we still didn't get an answer, regardless of what the other municipalities have, as to why you need such an excessive fine for such an act. This fine is really excessive, regardless of what the other municipalities have done.

Mr Grechulk: Perhaps I can make one quick comment and ask Mrs Topp if she wishes to add to my comment. Again, the only thing I can say is, with respect to these heritage buildings, as you'll see from the picture in front of you dealing with Lakehurst Villa, I think it is important that persons realize that historical buildings of significance—that they cannot just ignore legislation and use the demolition as a licence; in other words, realizing they can pay a minimal fine and do whatever they like. The purpose of the legislation is certainly to make people aware and abide by the legislation as much as possible.

I'm not sure if Mrs Topp wishes to add anything.

Mrs Topp: In addition to what Mr Grechulk was saying, the heritage of a community is important to an awful lot of the citizens in the community. What this would do is go one step further to protect that, ensuring that the thought process really has covered all the aspects of the value of the property before it's demolished as opposed to having it torn down. Then perhaps what has happened in the past at times is it sits as a vacant lot for quite some time before anything proceeds.

This won't take away the rights of anyone to make a change, but it will make sure that there are very firm plans and permissions in place for that to happen so that we don't lose something and not even have anything replacing it.

Mr Jordan: I'm thinking of my own riding, the county of Lanark and the town of Perth, which is the county town. Are you familiar with that town?

Mrs Topp: Yes.

Mr Jordan: We have many heritage buildings there and we haven't had any problems maintaining them with the 180-day limit. I understand you can renew that 180 days. It's not 180 days and the show is over.

Mrs Topp: I wasn't aware of that.

Mr Jordan: That's my understanding.

Mrs Topp: I wasn't aware. I would have to check further on that.

Mr Jordan: The zoning bylaws were such that it wouldn't make sense to do anything with the building until you had presented to council and to the planning committee what you had planned to put on there. So I still come back to an excessive fine. Up to \$1 million is absolutely ridiculous.

Mr Grechulk: If I could just answer in some respects the question in terms of the existing legislation, to the best of my knowledge the existing legislation does not require a person who owns a property who wants to demolish and put up a new building any obligation to come before council and present plans and have basically a purpose in mind before that building is demolished. That in essence is what we're trying to do with the new proposed bill.

Mr Jordan: Are you speaking of a case where the building has been declared a heritage building?

Mr Grechulk: Yes. It's been designated.

Mr Jordan: So they can't demolish it for 180 days, and then when new evidence comes before council, becomes active in the community and is advertised, then they have to apply again for the 180 days if there's new evidence there, as I understand it.

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I just feel we're so much regulated in this province at the present time and this is just more regulation and more control of the individual's rights. We'll soon have none left as businessmen or as developers or as people in this province who want to be productive and entrepreneurs and so on, because I'm not against heritage and I refer again in my riding to the town of Perth and Smith Falls and Carleton Place. Along the Ottawa River we maintain

a lot of beautiful buildings there but we didn't ever need that type of control over there.

Mr Ron Eddy (Brant-Haldimand): I wanted to take the opportunity to compliment the representatives of the city of Burlington and the LACAC for coming forward, because I view this as strengthening the preservation of heritage buildings, and it's very important. I think most of us can recall examples of buildings that were demolished almost overnight that shouldn't have been. I think this is very important.

Although I do agree that the penalties look high, I have to equate that with the price of properties and development in the city of Burlington and recognize that if you don't have a penalty that catches the eye, shall we say, of the developer or a purchaser of a designated building, then you're not going to prevent their demolition. So it is strengthening the preservation of heritage buildings and still allowing, of course, the purchaser to come forward and deal with the council but it requires council consent to demolish. I think it's a step forward and I support it as I would in the other municipalities that have it. In fact, I think it's something that should be extended to all municipalities if they wish. It's very, very important. We've lost too much already that we shouldn't have lost.

The other point I'd just like to make is that any heritage building can be fitted into a development if there's the will to do so. So, I agree with the bill.

Mr Hugh O'Neil (Quinte): I'll be very interested to hear what the parliamentary assistant has to say on this, but I notice that there were some objections from the Ontario Real Estate Association and I also understand that the Ontario Heritage Act is presently before the minister and there are certain changes that are being considered there.

I guess one of the questions that the Ontario Real Estate Association has raised is the case of compensation. I wonder if anyone who's here today would like to speak on that particular issue, on the objection you've had from the Ontario Real Estate Association.

Mr Grechuk: We were given a copy of the letter this morning from the clerk. I have scanned the letter. I just have, I guess, two comments with respect to the letter. In the third paragraph it's talking about this as "a poor precedent for other communities in Ontario." As I indicated earlier, this is not a precedent. We're basically following what other municipalities have done.

On the second point with respect to compensation, I would indicate that we're not taking away any property rights. A person, first of all, if they have a designated property, has to have a demolition permit and the demolition control is already under the Ontario Heritage Act. The second point is if they want to build, they're already caught by the Ontario Building Code Act. So all we're saying is that the timing of those two procedures, which already exist, are in place, must come closer together.

Mr O'Neil: I appreciate that comment. As I say, with the ministry looking at the act again to revise it, this whole problem of compensation will come up and will continue to be there as to whether the compensation is decided by, say, the city or by someone else. So I raise

that just to—I, like Mr Eddy, am a very strong proponent of the retention of heritage buildings, and of anything we can do to make the act stronger, to keep these buildings, to retain these buildings.

I know that the associate minister of Culture, Tourism and Recreation is here this morning and I believe she is also aware of this whole compensation issue, so that if buildings are retained as heritage buildings, the people who have owned these buildings, or own them presently, are treated fairly. That would be the only comment I would have to make.

Ms Christel Haeck (St Catharines-Brock): I want to say to my fellow committee members that I feel it would be better for me to sit here rather than in the Chair, because for one thing I want to declare a conflict: My husband is on the local LACAC in St Catharines, as well as being a president of the historical society, so I come to this with a lot of not only personal interest, but commitment to the heritage concerns presented by the city of Burlington.

I want to take the opportunity to clarify a couple of points. One, Mr Jordan indicated that, say, in the town of Perth you have a very amenable situation between property owners and the heritage community and the town whereby there are extensions of demolition permits or there is a plan in place prior to the building of something new. The reality is that there's no requirement under law for that to happen. The examples in St Catharines are legion. In fact, they have happened where buildings have been de-designated.

All members should be very clear that designation only occurs if there is complete approval on the part of the owner, so because you may have a particular property, as you have with Lakehurst, which is of historical significance, or architectural significance because this is not necessarily considered an old building, you have the situation where the property owner obviously was not in agreement with the designation approach, and therefore because there was another idea, not even a plan in place but some other intention that was in the mind of the owner, the building was demolished.

The process of designation as it currently stands under the Ontario Heritage Act is somewhat lengthy. I live in a heritage building myself, a designated property, and the fact of the matter is that designation took about four years to complete, because it was an entire neighbourhood in this case that needed to be on side. So designation is a long process. It requires the complete approval of the owner. Without that, demolition can occur fairly simply once the demolition permit is got from the municipality. In many instances in places like St Catharines we have lost an awful lot of very valuable buildings that happen to be very much part of the heritage fabric of the community, in a very short time, as pointed out by my colleague Mr Eddy.

I wanted to put that on the record and say that I'm fully in support of the intention of the city of Burlington, and I will turn it over the Chair again.

Mr David Johnson: On a point of procedure, Madam Chair—

The Vice-Chair (Mrs Ellen MacKinnon): Yes.

Mr David Johnson: Or a point of order, whatever you wish: At the municipal level, when you declare a conflict of interest, you do not speak to an issue.

Ms Haeck: Not in this instance.

Mr David Johnson: Through you, if I can, to the clerk, or anybody else who can advise, what is the procedure if someone on this committee has declared a conflict of interest? Are they then permitted and is it the custom to follow up and speak?

Mr O'Neil: There is no conflict of interest here.

Interjections.

Mr David Johnson: As I understand, the member declared a conflict of interest.

The Vice-Chair: Just a minute. One at a time.

Clerk of the Committee (Tonia Grannum): I've just been advised that Christel Haeck doesn't technically have a conflict of interest under our act.

Mr David Johnson: That's up to her. Whether she does or not, it's up to her to declare it or not declare it, and as I understood it, she declared it. If she declares it, whether she has one or not, she has declared it.

The Vice-Chair: Would you please let the clerk rule. What is the ruling, please? Just a minute.

Clerk of the Committee: Because she doesn't technically—

Interjection: No, but she did—

Clerk of the Committee: But she doesn't technically. She declared it, but we would allow her to speak, because under our act she doesn't. She made a statement and she was heard.

Mr David Johnson: Can I ask you this then: I find this a little unusual, but if she did declare, which she did apparently, and she did have a conflict of interest, would she then be permitted to speak?

1030

Clerk of the Committee: I will confer. Just a moment.

Ms Haeck: I have a point of order, if I may, Madam Chair?

Mr Ron Hansen (Lincoln): Finish the one first.

Mr Eddy: Do you wish me to speak to fill in the gap?

Ms Haeck: Madam Chair?

The Vice-Chair: Yes.

Ms Haeck: The reason I raised the issue of a conflict was because I can't ask questions in the Chair. Conflict of interest usually requires that you receive some sort of pecuniary benefit as a result of either your own affiliation or your family's affiliation. In the case of both LACAC and the historical society my husband gains not one dime. They are totally voluntary activities on his part.

In order for me to be able to express my personal interest in this particular bill, I have to remove myself from the Chair. I am not allowed to make these comments in the position of the Chair. That is why I asked Mrs Mackinnon, who is the Vice-Chair, to sit in my place

so I could make this comment.

This is not by any means a typical conflict of interest as in the municipal sense; it is, however, conflict in the sense that I cannot be in the Chair and make the comments I just made. You would be appropriately able to challenge my neutrality in the Chair. I am not trying to affect the vote. I did feel it was important for me to make those comments. I thank Mr Johnson for the opportunity to clarify my point.

The Vice-Chair: The clerk wishes to make a statement, please. Go ahead.

Interjections.

The Vice-Chair: Just a minute, please.

Mr Hansen: Do you want her to withdraw the statement?

Mr David Johnson: Is there a conflict of interest or not?

Mr Derek Fletcher (Guelph): No, there is not a conflict of interest.

The Vice-Chair: Just a minute. Let's have one conversation at a time. The clerk wishes to make something very clear. Would you go ahead, please.

Clerk of the Committee: If she doesn't have a conflict, she can speak; if she has a conflict, she can't speak.

The Vice-Chair: Is there a conflict?

Ms Haeck: No, there is no conflict.

The Vice-Chair: In your view, your advice?

Ms Haeck: I don't have a conflict because I receive no financial benefit as a result. I cannot, however, maintain my Chair's neutrality by being in the Chair and expressing these opinions. That's why I moved over here.

Mr David Johnson: What is confusing is that we heard you say that you declared a conflict of interest.

Ms Haeck: I did it because I wanted to clarify to all why I moved here.

Mr David Johnson: But now you're saying you didn't declare a conflict?

Ms Haeck: I don't have the kind of conflict that you're trying to propose I have.

The Vice-Chair: I believe this issue has been thoroughly discussed. Mr Hansen, you're next on the list, please.

Mr Hansen: I'm going to support this bill.

Coming from the Niagara area, I can remember a few years back where there was a heritage hotel on the Canborough trail which was a stagecoach hotel. What happened in that instance was that the owner had passed it on to his son; he had passed away. His idea was to restore it. His son's idea was to tear it down. He went for a permit to have it torn down. The municipality disagreed and didn't allow him to tear it down, so he went for a building permit to restore it. He brought in the bulldozers. It just happened at night that the bulldozers went through the building. Then he said: "Oops, we've got a problem. We knocked the building down by mistake." This is where a fine has to come in, because of what happened.

I fully support this because this happens too often. In

the Niagara area, and especially taking a look at the city of Burlington, Lakeshore Road, and at the Lakeshore along the Lincoln riding and St Catharines and through Grimsby, we have a lot of heritage homes. I think what we have to do is take an example of what they do in Europe. If you've got a thatched roof, you're going to put a thatched roof back on in that particular setting. This is what draws people as tourists to Europe. If we wind up bulldozing because developers want to come in and put up condos or whatever the case may be, who wants to drive down the street with just plain 1960 and on buildings? People are looking for the heritage of Canada and how it developed.

The Vice-Chair: Mr Johnson.

Mr Pat Hayes (Essex-Kent): He's had enough.

Mr David Johnson: I'd like to speak, but perhaps the parliamentary assistant would like to speak first.

Mr Hayes: No.

Mr David Johnson: His response may address some of my points. If not, I'll speak.

The Vice-Chair: Customarily, you'd speak last, isn't that right?

Mr Hayes: I guess, whatever, it doesn't matter.

The Vice-Chair: We'll go on to the next speaker.

Mr Hayes: Who's the next speaker?

The Vice-Chair: Mr Fletcher.

Mr David Johnson: I'd still like to speak.

Mr Fletcher: Have you got any conflict?

Mr David Johnson: I don't think the issue here is heritage. Certainly, all of us have been associated with heritage projects, and in my municipality I've already mentioned a couple of projects I'm very proud of: the old paper mill, the old brewery at Todmorden Mills. A couple of the original settlers' residences are preserved, and not only did we go to the extent of declaring them as heritage projects, but there's actually taxpayers' money that goes into them year after year to maintain them. Then there are some private buildings that have also been declared for heritage purposes in my municipality. The same is true of Mr Jordan and I'm sure the same is true of Mr Hodgson, Mr Eddy and all the other members who are here.

Mr Eddy: Cobblestone houses in Paris.

Mr David Johnson: We're all proud of our heritage and we're all here to protect that, but as to the question that's been raised by the Ontario Real Estate Association, I just want to read a little of its letter into the record:

"The principle of heritage preservation and the principles underlining the Ontario Heritage Act are important to everyone, including realtors. Included in those principles is an affirmation of the basic property rights of those who have an interest in the land. Those rights include the ability to move or demolish buildings owned by them unless such removal or demolition is contrary to the 'public interest.' Should that be the case and individual property rights abridged as a result, compensation in some form is due the owner.

"In our view, the private member's bill that I under-

stand you are sponsoring"—this is addressed to Mrs Sullivan—"on behalf of the city of Burlington, is in violation of individual property rights and a poor precedent for other communities in Ontario." That may or may not be wrong.

"In general terms, we can see no reason why the city of Burlington, or any other municipality, would require this type of legislation. There is already a good body of legislation designed specifically to protect heritage buildings while at the same time maintaining the rights of the property owners. Your proposed legislation would severely upset that balance and provide local municipalities with an unprecedented ability to restrict the rights of property owners at their whim.

"More specifically, we find provisions for fines of up to \$1 million to be excessive." I think this is the real nub of the problem. "No municipality should have the ability to levy fines of that magnitude for this type of supposed infraction."

As the solicitor has pointed out, it would actually be the courts that would levy those fines, but nevertheless, those fines plus imprisonment for up to a year would be available as a penalty and I just find that to be too severe.

Certainly, the heritage aspects are of great importance, but when you try to balance the two with the penalty, the penalty of up to \$1 million or imprisonment—to me that's going too far—for up to a year, then I would find it impossible to accept that as a package.

I might say that our member for Burlington South, Cam Jackson, wishes to also go on the record. He would ask the members to have a recorded vote on this matter. He says that he does not support the bill and finds that the penalty of up to a \$1 million and imprisonment to be too severe.

Those are the reasons why I have a difficulty with the bill. There are excellent intentions from the people representing Burlington. I'm sure they've done excellent work and are a credit to their community and I hope they keep up the good work, but I just find the penalty to be too severe.

Mr Fletcher: I'm going to be supporting this bill, Bill Pr83. As a youngster, I used to ride my bicycle along the Lakeshore from Mississauga, mostly to Hamilton to see some people I knew in Hamilton. It was a nice ride. It's a very beautiful ride: some beautiful homes and a reflection of our heritage, of our past. It's something we have to preserve. I can understand when a developer can get hands on some property and, oops, there goes a building and a \$200 fine, a \$300 fine and the person can make millions on that, especially down on the Lakeshore where, yes, I would like to have a condo on the Lakeshore if I could. I think it's something that should be preserved and I believe that the city of Burlington is moving in the right direction as far as this is concerned, and as I said before, I will be supporting it.

1040

The Vice-Chair: Would the parliamentary assistant like to speak?

Mr Hayes: First of all, some of the comments that

were made and a lot of the questions that were asked are the same kinds of questions that were asked when previous similar bills were passed: the ones from Toronto, Markham, Oakville and I think the city of Vaughan. Those things have already been really dealt with and the committee supported those bills.

The other thing, the concerns about people having to come back and forth all the time, and that seems to crop up in every one of our meetings, there is the intention—Mr Eddy has mentioned that the Ministry of Culture, Tourism and Recreation is in the process of taking steps to deal with these in the future. We have no objections from any ministries and therefore the Ministry of Municipal Affairs does not object to this bill.

The Vice-Chair: I believe we have heard from all the speakers. Is that correct? Are the members ready to vote?

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Mr David Johnson: What's the provision for a recorded vote?

Mr Fletcher: At the end.

Mr David Johnson: At the end? I'll ask for that then.

The Vice-Chair: We're aware.

Shall sections 3 through 10 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry?

Mr David Johnson: Recorded vote.

The Vice-Chair: All those in favour?

Ayes

Cooper, Eddy, Fletcher, Haeck, Hansen, Hayes.

The Vice-Chair: All those opposed?

Nays

Johnson (Don Mills), Jordan.

The Vice-Chair: Shall I report the bill to the House? Agreed.

I wish to thank the applicants for coming forward with this bill. The best of luck to you.

The Chair: I'd like to thank the members from Burlington and Mrs Sullivan for their presentations.

CITY OF MISSISSAUGA ACT, 1993

Consideration of Bill Pr46, An Act respecting the City of Mississauga.

The Chair: I welcome in turn Mr Mahoney, who is the sponsor of Bill Pr46, An Act respecting the City of Mississauga, if you could hang on for just a second while we're getting things in order here.

Mr Mahoney, I think we have come to that point where you may make some opening remarks and introduce the applicants.

Mr Steven W. Mahoney (Mississauga West): With me at the table are Mr Brian MacRae, commissioner of community services for the city of Mississauga; Shelley Pohjola, city solicitor; Don Mills, chief librarian; and Diane Wolfenden, director of public affairs.

Let me begin first of all, following the recent dis-

cussion around the conflict of interest, to put on the record that while I do not and am not declaring a conflict, my wife is a member of the city council in the city of Mississauga and she's also a member of LACAC, for Ms Haeck's interest, and she is also a member of the library board of the city of Mississauga. When my wife was elected to city council, I wrote a letter to the provincial commissioner of conflict of interest—I'm sure he wanted to celebrate her electoral victory—to inform him of what had occurred and request his opinion on any potential conflicts. He wrote back suggesting that it was indeed not a conflict of interest to have a spouse acting in that capacity and that everything was fine.

I should also point out that on—what section is it?—under the Members' Conflict of Interest Act, section 2, it states: "For the purposes of this act, a member has a conflict of interest when the member makes a decision or participates in making a decision in the execution of his or her office and at the same time knows that in the making of the decision there is the opportunity to further his or her private interest." The furtherance to the private interest in this instance might or might not be my wife getting off the library board and spending a little more time at home, but I'm not sure that even that would occur.

Let me say that I know there is some disagreement on this. I understand that the CUPE local has been opposed from the beginning to this move by the city of Mississauga council, and I understand that the library board has recently overturned an earlier decision in support and voted against providing support of this bill. Let me also say that I believe this issue is rightfully resolved at the local level in the sense that local autonomy is what this is really all about.

I spent nine years on city council in Mississauga and Peel regional council and during many of those debates it would be recorded that I spoke very often in favour of eliminating special-purpose bodies wherever possible, the principle being that accountability begins with the elected officials, as the former mayor of East York would probably agree, and that special-purpose bodies that are not directly accountable to the taxpayers are something that we have expressed concerns about.

1050

I would admit, as a past member, by the way, of the library board and indeed the chairman of the central library committee that led to the building of the very beautiful central library in Mississauga, that I think the library board has served the city well over the years and continues to do so. The mayor, though, has stated and council has supported council's desire to reduce duplication and to eliminate any potential conflicts of an administrative nature or a monetary nature between this particular special-purpose body, and I know Mayor McCallion believes that should happen with all special-purpose bodies.

I would refer the committee to a letter from the mayor, before the deputation addresses you, addressed to the Honourable Anne Swarbrick, dated December 10, in which the mayor makes reference to the fact that a memorandum signed between the municipal sector and

the government of Ontario around the implementation of the social contract said the following, among other things:

"...a moratorium on the creation of new special-purpose bodies or expanding the mandate of existing ones operating in the municipal sector. The government agrees to pursue the integration of local special-purpose bodies to which municipalities provide funding"—that being a key point—"with local government units as part of the process of rationalizing service delivery" also being a key point in this particular issue.

The mayor goes on to respectfully suggest to the minister that her position on the city's private bill to change the governance of the library system is in conflict with this government's expressed intent to pursue the rationalization of special-purpose boards, as outlined above.

Having said that, the minister and indeed the local CUPE union have made it quite clear that they don't support the bill at the present time.

My role as the sponsor of this bill is frankly to support my municipal council's position in its request to have the choice in the city of Mississauga. They are not asking this government to change the rulings for anyone other than Mississauga. Since they appoint the library board, since members of council serve on the library board, since they fund the library board for both capital and operating grants, they believe they have an obligation as locally elected officials to represent the concerns of the citizens directly. So I am executing my role as the member for Mississauga West in sponsoring this bill in support of the council.

At this time, I would turn the meeting over to Mr Brian MacRae, who I believe has a presentation to make to you.

The Chair: Mr MacRae, would you like to continue.

Mr Brian MacRae: Thank you, Madam Chair, and good morning to yourself and the honourable members of the committee. As Mr Mahoney has said, my name is Brian MacRae. I'm the commissioner of community services for the city of Mississauga. With me today are my colleagues Shelley Pohjola, our city solicitor, and Diane Wolfenden, the director of public affairs.

On behalf of the city, I'd like to start my remarks by thanking you for hearing our remarks on Bill Pr46. I'm going to keep those remarks brief to allow plenty of time for questions, because I know you have received the submissions to the Minister of Culture, Tourism and Recreation on this bill.

The essence of Bill Pr46 and really the issue before you today is freedom of choice to provide effective local government and who decides if that freedom can be given. We are simply asking for your support to give Mississauga that freedom.

The city of Mississauga is asking for the right to decide how its library system should be governed to best meet the needs of those concerned, and that includes our taxpayers, the clients of the Mississauga library system, the Mississauga library system staff, municipal staff, our local school boards and the Mississauga Public Library Board.

I need to emphasize that we are not, repeat not, asking that the system of library governance in Ontario be changed. We are not saying that library boards no longer work. In fact, we are very proud of the Mississauga Public Library Board and the library system and what they have achieved together over the years. We are simply asking that Mississauga, because of the reasons contained in our submissions to the minister, be given a freedom of choice.

As you have seen from the submissions, there are compelling reasons why realigning our library board as a committee of council would work best for Mississauga.

The concept of having library systems managed by municipal administration as an alternative to special-purpose library boards is not a new one. The concept was first discussed in the 1920s, and since then various official reviews of public libraries in Ontario have recommended that local governments be given choice in this matter.

The most recent official document to raise the question of special-purpose bodies, while not specifically mentioning library boards, is the municipal sector memorandum of understanding with the Ontario government for the implementing of the social contract. This memorandum calls for a provincial-local government task force to look at ways of removing duplication and overlap between these two levels of government. Among other specifics, it calls for the province to "pursue the integration of local special-purpose bodies to which municipalities provide funding with local government units as part of the process of rationalizing service delivery."

In Mississauga, we've spent in excess of four years consulting with any individual or group that has expressed an interest in the proposed realignment of the board. We first began to explore the possibility of realigning the board in January 1990. Since then, we have undertaken an extensive consultation process to hear the views of all concerned.

We've met with the public library board, unionized and non-unionized employees of the Mississauga library system, the school boards in the region of Peel, our residents, other interested local groups such as the Friends of the Library, staff and trustees of other library systems, the appropriate provincial ministers and their staffs and industry associations such as the Ontario Library Association and the Ontario Library Trustees Association.

As you are aware, we have not been able to convince all of these groups of the merits of our request for freedom of choice. We have, however, received most of the necessary local support required by the minister.

Until recently only one group did not support the proposed change: the unionized library system employees who are represented by CUPE Local 1989. However, on March 29 of this year, after some membership changes on the Mississauga Public Library Board, the library board voted to rescind its support. Because CUPE Local 1989 and now the library board do not support our initiative, the Minister of Culture, Tourism and Recreation has indicated that she will oppose the bill.

We recognize that the freedom we are asking for is not universally supported. We know that change is often difficult to achieve, particularly when it affects a system that has been in place for more than a century. We do believe, however, that Mississauga should be given the freedom it is seeking and we don't believe that we should be denied the right of choice in the form of governance for Mississauga's library system.

We are therefore asking for the ability to bring about a change that will benefit our citizens and we are asking you not to deny that right simply because it is not universally supported. Therefore, we are asking for your support today to enable Mississauga to provide more effective government through Bill Pr46.

I'm open to any questions, Madam Chair.

The Chair: Thank you, Mr MacRae. I know we do have a number of interested parties and I will first turn to Mrs Coppen, but before I ask her to speak, I want to somehow get some order to the range of interested parties.

The names we all have before us are: Mr Burge, Ms Adams, Ms Kathy Therrien, Jennifer Milne, Audrey Nichols, Michael Crawley, Steve Burdick, Edmundo Vasquez, Janet Walker and Maud-Mary Swalm. If you could organize yourselves into the groups you represent, we'll call them up in order so that we at least get some sort of organized approach. Frequently we do this in a little more haphazard manner, but we only have an hour left today.

1100

I would also like to advise the deputants that if we do not complete this today, our agenda for next week is already full, so we will have to find the next available date on which to complete this, so it may be some weeks hence.

Mrs Coppen, if you'd like to make your opening remarks and then we'll deal with the other deputants in order.

Hon Shirley Coppen (Minister without Portfolio in Culture, Tourism and Recreation): Thank you, Madam Chair. The Ministry of Culture, Tourism and Recreation, which is responsible for the administration of the Public Libraries Act and the development of provincial policies on library services, would like to state its position on Bill Pr46, An Act respecting the City of Mississauga.

The ministry opposes the bill for the following reasons: The Public Libraries Act provides for the governance of a public library only by a public library board. Strong accountability of a local board to its municipal council is ensured because the act states that the municipality controls all appointments to the board, including the appointment of one less than a majority of its own members; the municipality has line authority over the library board's annual estimates; the term of the board is concurrent with the term of the appointing council; and once established, the board's powers and duties are directed by legislation.

Public library boards are well positioned to manage in the best interests of a community's library services. Local boards serve as strong advocates for library service

priorities and also offer opportunities for citizenship representation to ensure a comprehensive and effective public library service that reflects the community's unique needs.

The act does not provide for, or encourage, the replacement of a public library board by a committee of council, as the city of Mississauga proposes in Bill Pr46.

This general legislation applies to all municipalities. The ministry acknowledges, however, that various factors, such as the economic environment and local needs, could influence the situation for public libraries in certain municipalities.

Recognizing that a municipality may apply for private legislation to change its library governance, the ministry developed a position on library governance that clarifies our requirements to the library community and municipalities. Our position was developed following a provincial consultation process led by the ministry's former parliamentary assistant, Gary Wilson. Elected municipal officials, municipal staff, library administrators, board trustees, CUPE representatives and the Ontario Library Trustees' Association were among those who participated in that consultation.

The ministry's position statement on public libraries being replaced by committees of council, January 1992, allows for flexibility on the governance issue where all parties in the affected community agree that a committee of council governance structure is justified. Municipalities and library boards were advised that this position statement would be the basis of all future ministry decisions on proposals by municipalities to replace their boards with committees of council.

According to the ministry's position statement, if a municipality introduces a private bill to replace its public library board with a committee of council, the ministry would consider not opposing such a bill where all the criteria outlined in the position paper have been met.

The criteria require that: The spirit and intent of the act is maintained; a rationale and justification for the change is detailed; all parties be consulted; evidence of support for the change is received from all parties; there is satisfactory evidence of community consultation and support; the council has identified a mechanism for ongoing community consultation; and terms of reference for the proposed committee structure are submitted.

The municipality must provide evidence that all parties in the affected community have reached a consensus in support of the move to a committee of council. Parties include the council, the library board, library management, union and non-union staff. If any of these parties in the community oppose the proposed change in library governance, the municipality does not meet the requirements of the position paper. The ministry, therefore, will oppose the proposed change.

In the case of the city of Mississauga, after two years of consultations with the ministry on the proposed change in the library governance, the city submitted its formal report to the Ministry of Culture and Communications in November 1992 when Mayor Hazel McCallion and Mississauga officials met with the previous minister,

Karen Haslam. At that meeting, the minister clarified again to the mayor that all criteria outlined in the position paper must be satisfied for the ministry to consider not opposing the proposed private bill.

In March 1993 the ministry requested additional information necessary to complete the report, which included written evidence of union support. Another meeting was held with Minister Anne Swarbrick in April 1993 where the minister was advised that the city of Mississauga would be submitting all outstanding information with the exception of a letter of union support.

On May 27, 1993, the city responded to the ministry's request for more information. The completed formal report still indicates that the library workers union, CUPE Local 1989, opposes a change in library governance. A copy of the letter is attached. Also, as has been repeated by the previous speakers, on March 29, 1994, the Mississauga library board, which voted in favour of governance by committee of council in November of 1990, voted five to four in favour of rescinding its previous motion. All members were present for the vote.

The minister has met with representatives of the Ontario Library Trustees Association and CUPE Ontario municipal employees coordinating committee, library workers committee, to hear their opinions on what library governance structure would deliver the best library service possible to the people of Ontario.

In conclusion, because the city of Mississauga has been unable to satisfy the requirements of the ministry's position statement, the Ministry of Culture, Tourism and Recreation opposes Bill Pr46, which would replace the city of Mississauga's library board with a committee of council.

The Chair: I would ask you at this point if you could possibly introduce some of the staff you've brought with you so that if there are questions they may be directed to the appropriate person.

Hon Mrs Copen: With my excitement of reading the statement, I neglected to introduce the ministry staff. Beginning with Barbara Clubb, Barbara, would you introduce everyone, please

Ms Barbara Clubb: I'm Barbara Clubb, director of the libraries and community information branch. Beside me is Paula Kashul, our legal counsel for the ministry. Beside Paula is Shirley Phillips, our specialist consultant dealing with library boards and committees of councils and issues of governance.

The Chair: I would then ask Mr Burge, if he's present, to come forward and join us at the table. Once you begin speaking, perhaps you would introduce yourself and continue.

1110

Mr Raymond Burge: My name is Raymond Burge. I'm a resident of Mississauga living at 1711 Bramsey Drive.

I oppose the passage of this bill and wish to draw the committee's attention to the following documents:

A letter from Mayor Hazel McCallion dated July 12, 1993: The mayor states that it is the intention of the change to move to a user-pay philosophy. Non-users

would pay less. The mayor is a non-user, as she admitted at the public meeting that she did not have time to read books. Is this a qualification for running a library as well as a city?

She also states, and I quote—

Mr Mahoney: I have a feeling she might be qualified.

Mr Burge: Well, I'll leave that quote.

I live in a modest three-bedroom house for which I pay more than \$4,000 a year in taxes and now she wants me to pay each time I use the public library. I say that she has her priorities wrong.

The mayor tells me also that the two public meetings which were held on this subject did not demonstrate vehement public opposition to the change. I ask you to look at the record, read the paper, and for the benefit of those who can't see from there, the headline was, "Book Thrown at City Council Over Library Board Changes." Despite the very careful Jesuitical way in which the report of the city on those public meetings is written, I can assure you that almost unanimously, every public person at that meeting opposed the change.

Now I'd like to refer to the letter from the minister, Anne Swarbrick, which states that the criterion for not opposing such a bill is that "all affected parties in the municipality have been consulted and have reached consensus in support." This is not the case. In fact, the opposite is the case. The union, the library board and the public have all registered their opposition. The council and the library management are the only ones in support.

As for the library management, may I tell you that they were asked to sign a public letter expressing their support. Can you imagine those managers refusing to sign that letter? What position would they have put themselves in as regards promotion in the future? I think that was a shameful act.

The council of Mississauga has made it clear that it wants not only financial control, which they already have, but political control also. I do not think this should be given. A library is not another service such as garbage collection or fire protection. Its operation raises questions with cultural implications which I believe are best kept out of the hands of municipal politicians who have neither the time nor the interest to devote to such questions.

The Chair: Thank you, Mr Burge. I also compliment you on the fact that your comments were succinct and I hope all presenters will keep that in mind if they want to see this completed today.

I would ask the CUPE members to come forward, please. I believe Mr Burdick is the head of the library workers committee. Is that correct?

Mr Steven Burdick: That's correct.

The Chair: And the representatives of the other locals, please. I'm not sure who would like to go forward first. Possibly the local that represents that library would be appropriate and then if there are any additional remarks, that would then be appropriate.

Ms Audrey Nichols: I am Audrey Nichols. I am president of CUPE Local 1989 which represents 419

members who are employed by the Mississauga library system. To my left is Steven Burdick. He's the president of the Metro reference library and also the chair of the OMECC library caucus. Janet Walker is the president for Toronto Public Library and Thea Adams is the president for Scarborough.

First of all, allow me to give a brief background as to how this issue started. In the 1970s, I believe, the present mayor of Mississauga was sitting on the library board and became concerned as to the size of the library budget. It was felt that elected officials should have more control since they are perceived to be more accountable than appointees are. Many other municipalities had these same concerns in this area, and the Public Libraries Act was amended in 1984 to give council the right to approve library board budgets line by line.

Please keep in mind that the municipalities also have the power to appoint councillors and citizen representatives to the board. On the present Mississauga library board this amounts to six out of nine members.

The 1984 amendments to the Public Libraries Act clarified and strengthened the accountability of the boards to their appointing councils. The city of Mississauga knows how to use this power to keep its board in line. This was well demonstrated when the city pressured the board into not ratifying the tentative agreement our union and the city-board negotiators had come to last year. We understand that the board was told, "You can go ahead and ratify, but we won't give you a penny towards the salary increases and you would probably have to look at layoffs to cover the shortfall."

The library's budget is well supervised by the community services department and the city manager's office, I assure you. For most municipalities this is sufficient accountability, but the city of Mississauga wants to go one giant step further and do away with the library board altogether.

Local 1989 has many problems with this proposal:

(1) The library advisory committee would have no mandate such as that of the library board under the Public Libraries Act. The library advisory committee would only look at future plans and community impact etc. Complete control of the day-to-day running of the library system would go to the city of Mississauga with this planned bill.

As we understand it, members of the public with concerns about their library services would go through a convoluted system of a library advisory committee which would report to the general committee of council, which would report to council, which would direct the commissioner of community services to direct the chief librarian to attend to the matter. At least that's as much as we've been able to gather from the new process they propose. We wonder: Is this really better service to the public in this day and age when we call our patrons "customers"? Is this really the example of accountability that the city of Mississauga needs?

(2) This move sets a precedent for the whole province. About six other communities are waiting to see what happens with this bill with the hope that they too can

change from a library board to a library advisory committee. There are two communities that do not have library boards, but they are small county institutions, and we do not believe they should be compared or have really set any precedents since Mississauga is the ninth largest city in Canada.

During the great social contract sectoral talks, the government of Ontario gave the municipalities the assurance that it will look at the issue of special boards and commissions. We strongly believe that any decision to change this board to an advisory committee should be shelved until the issue of the future of boards is resolved in that arena. Let us not pick away at the very fabric of library services in this province piece by piece. We believe any changes should be done in a cohesive manner.

(3) The issue of intellectual freedom is also of grave concern. Do we really want politicians having greater say as to how our libraries are run? Might they not be targets at election time for special interest groups that may not approve of what we have on our shelves? We would like to see our present library board given the chance to act independently as they are supposed to.

(4) Mr Burge alluded to the user-pay philosophy, and I will just make one comment. We believe that the user-pay philosophy can lead users to decide not to pay. Then what happens next? Do we not offer library service? Do we privatize libraries and run the risk of unabated censorship? We'd like to know whatever happened to the "public" in public libraries.

(5) With regard to the vote taken by the non-union staff, we would like to publicly register our protest as to who voted on the issue. According to our certificate of recognition, as many as probably 10 people who did vote are technically unionized employees since they are not excluded by that document.

We remain opposed to this proposal and ask your support in maintaining the "public" in our library system. At this point, the way to do this is to keep the Mississauga Public Library board alive and well. We call on the city of Mississauga to work with us to make our library board a positive and dynamic body, not hampered by this uncertainty as to its future.

As noted in the statement from the Ministry of Culture, Tourism and Recreation, the city should strive to work within the framework of the present legislation. We do not believe that the city of Mississauga has wholeheartedly done that yet.

1120

The Chair: Thank you very much, Ms Nichols. If there are any other presenters at this point who would like to make a few remarks, please feel free to make them, but for the purposes of Hansard please introduce yourself.

Mr Burdick: I will then go next. My name, as you heard, is Steve Burdick. Apart from being president of my own local at the Metro library, where we represent about 400 workers, I'm the chair of the library workers committee in OMECC, which is the Ontario municipal employees coordinating committee in CUPE Ontario. We

represent, therefore, some 50-odd public libraries and two or three university libraries, about 4,500 library workers in the province.

The position I'm going to spell out for you is one that has been adopted by representatives of that body over a two- or three-year period, because this issue has, of course, been brewing in its current manifestation for at least that long.

I want to thank you for allowing me to be present here today, Madam Chair and all of the committee members. I trust that you have received the written submission that I sent you on July 20, 1993. I sent 30 copies to you through the clerk, and attached to that was a copy of the presentation we made back in October 1992 at a public forum held in Mississauga. Many of the points I would make today are dealt with there and certainly in much greater detail, so I will not go into a great amount of detail here today, but I will certainly indicate that I'm prepared to discuss what's in those documents with you, if that's your pleasure.

I would like to follow up on a number of remarks that Audrey has made as well as some of the previous speakers. First of all, appearances perhaps to the contrary, this is not simply a local issue. All of Ontario and all of Ontario's library community is watching what happens right here. What happens here has implications not simply for Mississauga but for library services in Ontario; it has implications for the Public Libraries Act and it is not something that should be viewed in isolation.

There have, as of course has been noted by any number of speakers, been some subsequent changes since this bill was first brought forward. I suppose from a procedural point of view, the most significant change is the withdrawal of support by the Mississauga Public Library board. You will see that there are other people here who will not support this bill. You've heard a little bit from the public. It's clear, and we talked about this in our July 1993 submission, that it was not entirely obviously or necessarily the case that the community in Mississauga supports the abolition of the library board or its transformation into a committee of council. You've heard from Mr Burge on that point as well.

Obviously, you're aware that the local at Mississauga doesn't support it. To my left are representatives from two other libraries in the greater Toronto area that do not support this as well. I guess that brings us to the question of why we don't support it, and that's not simply a question of procedures and technicalities; that's a question of service, the merit and the issues here.

We represent the people who are closest to the service. Library managements and perhaps, with some respect, library boards are not closest to the service. The workers are those who are closest to the service and we have seen a number of things going on right now. We have seen and we are continuing to see library services under severe attack in Ontario. Funding is at the root of this issue and it's not clear to us that adequate funding for libraries to maintain and improve collections and services will be provided by committees of council.

The experience we've been able to find elsewhere in Canada when such changes have taken place, notably in

the city of Winnipeg, does not make us feel very optimistic. We think this is therefore a wrongheaded move.

Beyond funding, though, the real question is, how will service be maintained? It's our serious concern that once a semi-autonomous or an autonomous board is abolished, there remains no one effectively able to speak for the interests of service, other than the workers themselves, and they don't have as much of a political voice as may be required.

We're talking here about cultural, economic and informational issues, equity of access, things that we can talk about. We can go to our management. We can go to our library boards. The library boards themselves can bring these issues forward and deal with them at an arm's-length relationship to members of council. The council will retain, even without the changes contemplated by this act, a lot of funding control. They will retain the ability to bring their concerns forward to the library board, given the number of appointments they make to the board.

I would remind you as well that this debate is not simply going back to 1920; it goes back to at least the 17th century. John Milton, in the *Areopagitica*, made it very clear—and I believe a lot of our tradition goes to this—that there needs to be some distance between the governors and the public when it comes to matters of expression and freedom of expression. There needs to be a bit of distance there.

Library boards are in a position to be able to withstand immediate and day-to-day political concerns that come up. Some of these things clearly have to do with freedom of expression. They're not completely insulated; they certainly are accessible, but they don't have to immediately say: "Oh, somebody doesn't want such-and-such an item? We have to take it off."

So we don't have entirely unmodified support for library boards. We also feel they need some changes made to them to be made more representative, accountable, democratic. Those concerns have been conveyed to the ministry repeatedly and the ministry is in fact beginning to respond favourably to them. But the board, as an institution, is something that we feel needs to be maintained.

So for the foregoing reasons, we ask you not to support this bill and to avoid further degradations to public service, both in Mississauga and eventually in Ontario, with respect to library service. I've been speaking perhaps too quickly, but if you have any questions or comments, certainly I'm available to respond to them.

The Chair: Any additional speakers?

Ms Nichols: Madam Chair, we are aware that your committee stands down in about two minutes. Two other speakers have very brief statements that they'd like to make.

The Chair: If you'd like to make those statements, please.

Mr Gordon Mills (Durham East): We adjourn at 12 o'clock.

The Chair: At 12 o'clock.

Ms Janet Walker: Even so, I'm going to be very

brief. I'm Janet Walker and I'm president of the Toronto Public Library Workers. I'm sure as many of you are aware, the city of Toronto's providers of front-line public services are incessantly under the gun as the municipalities engage in round upon round of budget cuts. As politicians must, they focus on cost: "What does this cost? What is the benefit?" Those are the sorts of things that they are not in a position to measure.

Without boards, there is no one to work with the public and employee groups to describe to the politicians the value of services. Those are some pretty intangible things. Boards must be maintained to deal with these things that they are best suited to champion, seemingly immeasurable things which are the centre of our quality of life. With that, I would urge you not to support the bill.

Ms Thea Adams: My name is Thea Adams and I'm president of CUPE Local 1877, which is Scarborough Public Library unionized employees. I echo the sentiments of my brothers and sisters before me. We urge you not to support this bill.

We feel that library boards are very important. Our union attends all library board meetings. We attend council meetings. We have seen what can happen in the past when a library board allows the politicians to take over their responsibilities. Our film department was gone with a stroke of the pen; line-by-line budget, when records and cassettes were gone with the stroke of a pen. Just to have a politician walk into his local library and say, "How come you don't have any new records or cassettes?"—it was that politician who took that money out of that budget.

So politicians, not to underestimate them, are very busy people. They have a lot of issues that they must attend to. The library service is a very complex service. It's getting more complex as we all get on to the information highway. To add this burden onto them so that they would have a total understanding of what libraries mean—we've also talked about intellectual freedom, representation of the community. I think this is very important.

I think the present model allows the library boards to provide quality service in Ontario. It allows them to do all the things they want to do, except for totally control the monetary. That's what happens if you take library boards away: It's going to come down to a dollars-and-cents mentality. We're going to start to be compared to roads and garbage collection. They have their own merits, they are very different issues, and they should not be compared in this society.

1130

The Chair: I'd like to thank you very much for your remarks. In the interests of time, I'm going to thank you again for those and ask the following people to come forward: Jennifer Milne, Michael Crawley and Edmundo Vasquez. If I can ask the gentleman here in the grey if he would introduce himself.

Mr Mahoney: Grey jacket.

The Chair: Grey jacket; I have some sympathy with the grey hair, but if you would like to continue, please.

Mr Michael Crawley: I'm Michael Crawley. It happens that I'm a member of the Mississauga library board; I do not appear as such on your agenda because I do not have a mandate from the board to appear here. I would also like to point out that Mr Don Mills appears on the agenda as chief librarian; he has no mandate from the library board to appear as such. Of course, as a private individual he's very welcome.

Democracy works because we give our elected representatives a certain amount of power and then we place strict limitations on this power. We have a system of checks and balances. The check and balance in the library system is the library board. We've heard the proponents of this bill ask for freedom for the municipality. I feel that what they're asking for is licence, which is a vastly different thing. Please scotch this before it happens.

The Chair: Thank you, Mr Crawley. The reason I called you forward with this group is that you were listed on one of the addenda as a library board member. So I hope that this is not suggesting that you necessarily hold the same view. Dr Vasquez, I believe?

Dr Edmundo Vasquez: Yes, Edmundo Vasquez. I am vice-chair of the OLTA, Ontario Library Trustees' Association, task force on governance, and I'm also the chair of the Toronto Public Library board. I think we have given a copy of our statement to everybody. I'll try to cut through it, as we want to make some points clear here.

The Ontario Library Trustees' Association is here to request that members of the Legislature take a clear position in opposition to the city of Mississauga's wish to remove governing responsibility from an independent library board of volunteers and to place it in the hands of city council. It is the view of this organization that Bill Pr46 seriously violates the spirit of the Public Libraries Act, 1984, and threatens the future of library service not only in Mississauga but in the entire province through the precedent it sets.

We agree with the Ministry of Culture, Tourism and Recreation position statement. The Ontario Library Trustees' Association was invited by the minister to monitor the procedure described by Minister Coppen, and we have done this as best we could. We have seen the detailed report sent to the minister in November 1992. We have attended public meetings in Mississauga and have, at the library union's invitation, participated in a public meeting at which it provided its point of view. We have, in addition, received numerous confidential calls, letters and notes from Mississauga Public Library staff about this issue. We have also had direct discussions and presentations from the city of Mississauga and the Mississauga Public Library board.

The Mississauga response: We can say without any doubt that the criteria set out by the ministry for justifying an exclusion from the Public Libraries Act, 1984, have not been satisfied. The positive consensus that the ministry requested does not exist in Mississauga. Although input was not large in public meetings, objectors from the community dominated the discussions; they were particularly eloquent in expressing their dismay over the barriers the new advisory structure raises. The city

had no answer for them in these meetings, and subsequent studies of municipal advisory committees appear to bear out the arguments we heard.

On March 29, 1994, the Mississauga Public Library board rescinded support for the legislation which had been given by the previous board. As you have witnessed, the union remains an articulate and vociferous objector. While it is clear that library management approves the legislation, the request for intervention from library staff to the Ontario Library Association raises doubts even in that area.

In short, in this organization's perception, city council appears to be the only unanimous supporter of this legislation.

We received a copy from the city of the report it prepared for the minister. It too fails the criteria set out by the ministry. It lacks the concrete detail that the ministry requested. Instead, it states that conditions will be better without providing evidence to show how the change requested in Bill Pr46 is necessary or likely to achieve what is being stated. Everything detailed in the report seems possible now, and in large measure is already happening, without removing the board.

The experience in Mississauga is solid demonstration of the power that the Public Libraries Act, 1984, gives to municipalities. The city has developed a highly integrated approach to administration that is stated to be efficient and cost-effective. Although not every municipal jurisdiction has found that bigger central administration is the most efficient or cost-effective, the Public Libraries Act, 1984, in no way precluded the city of Mississauga from entering such arrangements with the library board.

What is troublesome about the report of the city of Mississauga to the minister is its almost exclusively administrative point of view. It says too little about services and the impact on the public of the legislative change being sought. This suggests a profound misunderstanding of boards, their role and the reasons public library legislation exists at all.

A board exists to protect the library's collection from direct political influence; to protect equity of access for all citizens and to defend their right to know; to protect the library as a source of information and knowledge to everyone in Mississauga, from the municipal councillors to the unemployed, from students to seniors; to preserve the culture of the community; to protect municipal councils on hard questions without fear of political pressure or later political reprisal.

The impact on the province: At this very moment, there are over 3,500 library trustees working in a volunteer capacity for their communities across Ontario. They donate countless hours of their own time to protect and promote this most valuable community educational resource. Their energy and commitment are happily rewarded in public opinion surveys that tell us they are creating what is virtually every community's most respected service.

Communities trust their peers on library boards to protect the access to the information they need, whether it be for personal, economic, cultural or political pur-

poses. They trust the politicians they elect to protect their tax dollars. The Public Libraries Act, 1984, strikes the balance needed to ensure both cost-effective government and board accountability for those tax dollars.

Mississauga wishes to remove one half of the equation without evidence that the public would be better served. Not only is this not good for Mississauga; it is not good for the province. Bill Pr46 must not proceed.

Freedom of choice is what we trustees call citizen participation and empowerment. Thank you for your time.

1140

The Chair: Thank you very much, Dr Vasquez. Is this Ms Walker or Ms Milne?

Ms Jennifer Milne: Ms Milne.

The Chair: Did you have any remarks to make at this time?

Ms Milne: Yes, I did. My name is Jennifer Milne. I'm the chief executive officer of the Etobicoke Public Library board. I am also a department head for the city of Etobicoke. Both my board and the city manager's office know I am here today. However, I am speaking in my capacity as the chairperson of the Chief Executive Officers of the Large Public Libraries in Ontario. This is an organization called CELPLO and it consists of CEOs of the large public libraries in Ontario. Those are the municipalities that represent over 100,000 population. We're a small group; there are about 24 of us.

What I want to do today is just to make a few remarks concerning the process of governance discussion that has gone on here this morning. CELPLO has currently been engaged in a series of discussions around the issues that face the large public libraries in Ontario at the present time. One of the issues for us is, how are we going to manage in the current economic crisis? The union members mentioned that the libraries have been under extreme fiscal restraint. This is true. It has been extremely difficult, and certainly in the case of the Etobicoke public library, we had to downsize to the extent of eliminating 18 positions and laying off 12 staff during the current budget year. Our library materials budget was cut by over 30%. One has to take a look at how one is going to manage.

It is my view that here today the issue is whether or not the public library legislation is permissive or restrictive. One of the positions that the public librarians in the large public libraries, the chief executive officers, are coming to is that the local municipality must have the ability to act according to its local conditions. Local conditions vary greatly from one municipality to another and the local councillors and the local library board—I believe the mandate of the public library states "the unique needs of the community." That's actually a lift from the act.

One of the things we are considering as chief executive officers—it's part of our responsibility to recommend to our board, and indeed to city council via the board, actions to ensure good public library service. The ability to respond to local needs is very important.

There have, over the past decade, been a number of initiatives, endeavours, to have the Public Libraries Act

altered in order that the local municipality could determine the nature of library governance. It's interesting to note, and this has been pointed out before, that in the current municipal sectoral agreement, AMO certainly was very interested in looking at the governance of all special-purpose bodies and whether or not they best represented the requirements of the local taxpayer. Public library boards were one of the groups to be looked at. I understand that the Pilkey commission is still meeting on this matter and that special-purpose bodies of all kinds, including public utility commissions, are under close examination. It will be interesting to see what the recommendations of the Pilkey commission are.

I should also point out that if one has extremely restrictive legislation, such as that that came into effect, for example, during Prohibition, people will do end runs to make sure they get their own way. For those of you who have not seen the posting for the Chatham Public Library which appeared in the newspaper recently, I would encourage you to look at it. One could constitute that as an end run. The CEO of that public library board is the city manager. I understand that—I won't go on about Chatham; that's their business.

There have been other boards that existed in the municipal environment as well, including planning boards, and parks and recreation boards. You will note that those boards are no longer in existence in most places, because in the wisdom of the local municipality and in the interests of the local taxpayer, the service and the taxpayer were better served by changing the structure of that function. The function remains, and indeed in many cases they're far better off. Certainly, in the city of Etobicoke, we have community schools; in fact, we're one of the first municipalities to do so, a very innovative way of making use of board of education property and public property for the use of the taxpayer in a 24-hour period.

Finally, I would like to address one thing which is an inaccuracy. I would be prepared to offer the committee evidence for this. That is the issue of intellectual freedom. This has been discussed quite a bit, that public library boards are better at protecting intellectual freedom than municipal councils. Being a librarian, I did some research on it. There is no evidence to indicate that municipal councils are more likely to censor material than a public library board. Indeed, it has occurred that members of public library boards have been involved in censoring material, as there have been initiatives on parts of municipal councils. I repeat, there is no evidence to indicate there would be any intellectual freedom issue that is greater than exists presently if municipal councils were directly responsible for public library boards.

In summary, the issue is, is this permissive or restrictive legislation and, finally, does the local municipality have the right to decide?

The Chair: There's a list of names that I have before me, but I am required to ask if there is anybody additional who wishes to make a remark, and I will tell folks, since there is no clock in this room, that it's a quarter to 12. Seeing no one rise to that request, I will ask Mr Mills if he would like to pose his question.

Mr Mills: I like to make a few comments. First of all, it's not often on this committee that we have a minister of the crown to sit here and I recognize her appearance here this morning, and that to me signifies the importance of this issue to the ministry.

I'd also like to thank all the people who have appeared here. I've had the opportunity to read your material. I'd just like to share with you that back in 1970s, on the municipal council that I sat on in the city of Barrie, I was appointed as council's rep to the library board. I often wondered when I would use that experience, and lo and behold, all things that go around come around and here we are today where I can draw on that experience.

I have considerable empathy with what many of you have said in that I would go to council on behalf of the library board to speak for those folks in my usual forceful way to achieve things because otherwise—as I was sitting here, I was thinking of some of the things that people said. I remember one councillor sitting there—we called them aldermen in the city of Barrie—and he said, “Can you tell me how many people went through the library last year?” as though that had some significance about the budget. I remember telling him off and telling him to get a life—I didn't say that in those days. Then I remember another fellow, and I can see him as I sit here, his face, and he said: “Why have you got records in the library? Aren't people suppose to buy their own records?” I can tell you that it was a constant battle every time we met.

I represented the library board to our council and it wasn't pleasant. I'm looking at one of the presentation here, and I can see in my mind what would happen if we passed this bill, and I want to speak briefly to the Winnipeg experience.

I could see happening if it hadn't been for my defence of the library board in my municipality. It says here, “Buried in the general budgets of the city”—what happened in Winnipeg—“by 1985 the WPL had declined in every significant indicator when compared to other large Canadian urban public libraries: per capita revenue from the city government, materials budget per capita, volumes owned per capita.”

I can remember all those arguments: “Why are we buying these books? How many people go in there? Is it a service that we are providing for the elite in the community, you know, the eggheads?” etc.

I'm glad now that I was able to serve those years that I did because it's refreshed my memory, it's helped me to understand your points of view and your arguments, and I can tell you, unequivocally, that I will not support this bill.

Mr David Johnson: First of all, I'd like to read a letter into the record that I've been asked to read, from one of our members, Charles Harnick:

“I would like to take this opportunity to voice my opposition to the abovenoted legislation. I strongly believe that the governance of public libraries in this province should not be the responsibility of local elected officials.

“The proposed bill would allow the city of Mississauga to have control over the library's priorities in spending.

Libraries, and all cultural institutions, must be guaranteed an arm's-length relationship from its political masters.

"Libraries must be guaranteed intellectual freedom. There is apprehension that should this legislation pass, other municipalities will try to take over their local libraries. The residents of North York do not want politicians determining the priorities and the use of resources for the North York Public Library.

"Existing legislation guarantees the separation of cultural institutions from elected officials while creating a balance between citizen participation and fiscal control by the municipality. The governance of public libraries falls under the jurisdiction of the Public Libraries Act of 1984. The act ensures that a library board is fiscally accountable to the municipality.

"The city of Mississauga's proposed bill would have the effect of eroding a specific and important principle of public policy for this province, and therefore I ask the members of this committee not to support this legislation.

"Charles Harnick, QC, MPP

"Willowdale."

1150

My own comments would be that this is a little bit of a difficult issue. I don't blame the city of Mississauga, because frankly I know that municipalities are struggling in this day and age with finances and they're looking at all ways and means to put forward an efficient government. My guess is that the city of Mississauga, through the expenditure control program and the social contract, probably was reduced somewhere between \$5 million and \$10 million last year over what it expected to have budgeted.

I know this issue came up before last year and this is a long-standing approach in the city of Mississauga in its view to achieve rational and efficient local government. I'm quite sure they're well intentioned in that approach. Certainly, coming from a municipal background, I encourage that municipalities have freedom of choice, as I think somebody said here just a little while ago, as much as possible. Wherever local governments or governments of any nature are trying to be more efficient, then taxpayers would say: "Hurray. Go to it and do it." So I don't assign any ill intentions to the city of Mississauga. I think they've had quite a leadership role in providing very efficient municipal government, and this is probably along the same line.

At the same time, Mr Mills indicated his membership on a local library board. I served on the East York library board for nine years and I think almost two years on the Metro library board. I can certainly tell you from my experience on the East York library board in particular that it was a very efficient operation. All the boards I worked with were excellent. The staff were very efficient and good staff. The system worked well. We had board members who were greatly experienced, gave of their time freely and added a great deal, I think, to the services in the borough of East York.

I suspect that I'm on record. This issue has come up through the years, and I would be fairly certain that somewhere back a few years ago I'm on record as

supporting that the library board structure remain the way it is through the board system rather than be controlled by the municipality. I know that in East York or any board I've been associated with, the taxpayers have got excellent value for their money.

It's one of those tough ones, but obviously the minister has laid out the marching orders here. I respect the fact that at least there are criteria. Sometimes we're flying by the seat of our pants. I guess we could argue whether the criteria are reasonable, but at least the criteria are there. Perhaps at some point in time there could be a review, because to have all the parties agree absolutely may be a little bit tough. However the criteria are there and they're not met, so I guess we know what's going to happen: This bill is not going to be supported.

Mr Hayes: I will be very brief. I just wasn't going to let Mr Mills or Mr Johnson outdo me, because in the 1970s I was chairperson of the library board in Essex county.

Mr Fletcher: I have a library card.

Mr Hayes: He has a library card.

However, I can certainly understand the political side of it when they want to be more efficient. The first thing that politicians think of a lot of times is, "Well, we've got to save money," and you have to do it whatever way is possible.

When I was chair of the library board of Essex county, when we'd go before county council, you had to fight and fight very hard. Of course, I was elected on county council at the same time when I was chair. A lot of times the politicians didn't really take into consideration the needs of the public or the important service of the library system.

I'm not going to go on any longer, Madam Chair. I just wanted to make that point.

The Chair: Thank you, Mr Hayes. Mr Fletcher's happy that you're not going to go on any longer. Mr O'Neil.

Mr O'Neil: I can't say that I ever served on a library board. I don't think I ever did. But I was the Minister of Culture and Communications so—

Mr Mills: Have you got a library card?

Mr O'Neil: I remember those good days, Gord. Anyway, it would appear, as was previously mentioned, that the marching orders are here. I also would like to reiterate some of the comments that were made a little earlier.

These are very difficult times, not only for library boards but they're also very difficult times for municipal councils. It was mentioned that there are a lot of pressures there because of the downturn in the economy, the social contract and many other things that have made it very difficult for those municipal councils, for those library boards and for many other agencies to make things work.

This bill will likely be defeated. I guess the only advice I could give, if I may, is that the municipal councils and the library boards, and the unions and staff, have to maybe work a little closer together and cooperate

in some of their demands and some of the pressures that they face to make things work until things start to straighten around again.

The Chair: Mr Mahoney, we're fast approaching that time, so very brief, please.

Mr Mahoney: Madam Chair, just to say that I feel mortally wounded but I will live to fight the next issue.

The Chair: Thank you for being brief, Mr Mahoney. We've come to the time where I have to ask the question, are the members ready to vote? Okay.

Shall sections 1 through 4 of Bill Pr46 carry? No.

Shall the preamble carry? No.

Shall the title carry? No.

Shall the bill carry? No.

Shall I report the bill to the House? No.

This has obviously been a contentious bill. I know the emotion that revolves around this. I won't give you my résumé, but shall we say 16 years in library work gives me some sense of what was at hand. I appreciate all of your efforts and your concerns. Thank you very much for coming forward today.

The committee adjourned at 1158.

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Janis Topp, chair, Burlington Local Architectural Conservation Advisory Committee	
Pat Hayes, parliamentary assistant to the Minister of Municipal Affairs	
City of Mississauga Act, 1993 , Bill Pr46, <i>Mr Mahoney</i>	T-212
Steven Mahoney, MPP	
Brian MacRae, commissioner of community services, city of Mississauga	
Hon Shirley Copen, Minister without Portfolio in Culture, Tourism and Recreation	
Barbara Clubb, director, libraries and community information branch, Ministry of Culture, Tourism and Recreation	
Raymond Burge, objector	
Steven Burdick, chair, library workers committee, CUPE local 1582	
Audrey Nichols, president, CUPE Local 1989, Mississauga Public Library workers	
Janet Walker, president, CUPE local 1996, Toronto Public Library workers	
Thea Adams, president, CUPE Local 1877, Scarborough Public Library workers	
Michael Crawley	
Dr Edmundo Vasquez, vice-chair, task force on governance, Ontario Library Trustees' Association	
Jennifer Milne, chairperson, Chief Executive Officers of Large Public Libraries in Ontario	

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- ***Vice-Chair / Vice-Présidente:** MacKinnon, Ellen (Lambton ND)
- *Eddy, Ron (Brant-Haldimand L)
- *Fletcher, Derek (Guelph ND)
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- *Hayes, Pat (Essex-Kent ND)
- *Johnson, David (Don Mills PC)
- *Jordan, Leo (Lanark-Renfrew PC)
- *Mills, Gordon (Durham East/-Est ND)
- *O'Neil, Hugh P. (Quinte L)
- Perruzza, Anthony (Downsview ND)
- Ruprecht, Tony (Parkdale L)
- *In attendance / présents*

Substitutions present/ Membres remplaçants présents:

Cooper, Mike (Kitchener-Wilmot ND) for Mr Mills

Clerk / Greffière: Grannum, Tonia

Staff / Personnel: Klein, Susan A., legislative counsel



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**Legislative Assembly
of Ontario**

Third Session, 35th Parliament

**Assemblée législative
de l'Ontario**

Troisième session, 35^e législature

**Official Report
of Debates
(Hansard)**

Wednesday 20 April 1994

**Journal
des débats
(Hansard)**

Mercredi 20 avril 1994

**Standing committee on
regulations and private bills**

**Comité permanent des
règlements et des projets
de loi privés**

Chair: Christel Haeck
Clerk: Tonia Grannum

Présidente : Christel Haeck
Greffière : Tonia Grannum



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
REGULATIONS AND PRIVATE BILLS

Wednesday 20 April 1994

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS
ET DES PROJETS DE LOI PRIVÉS

Mercredi 20 avril 1994

The committee met at 1004 in committee room 2.

TUBERATE HEAT TRANSFER LTD. ACT, 1994

Consideration of Bill Pr86, An Act to revive Tuberate Heat Transfer Ltd.

The Chair (Ms Christel Haeck): Our first piece of business is to call Bill Pr86, An Act to revive Tuberate Heat Transfer Ltd. Welcome to our sponsor, member Bob Huget. Say a few opening remarks and introduce the applicant, please.

Mr Bob Huget (Sarnia): Thank you very much, Madam Chair. Good morning to you and to members of the committee. I am pleased to sponsor Bill Pr86. Seated with me is John Ruffilli. He has a submission to make to the committee, and I'll turn it over to John.

Mr John Ruffilli: My name is John Ruffilli. I'm a lawyer from Sarnia and I represent the current shareholders of the company known as Tuberate Heat Transfer Ltd, Ralph Vander Linde and Mike Banovsky.

I appear before you today, requesting passage of the private member's bill reviving that corporation. This corporation came into being in 1973 by way of articles of incorporation. Since that time, it has performed pressure vessel and welding design and construction for the petrochemical industry in and around the city of Sarnia.

By the mid-1980s, the principals of the corporation, who had been George Visser, Bernard Bax and Arthur Wallace, had reduced the activity of the corporation due to the economic times, and in fact Mr Visser had become the sole shareholder of the corporation and was doing work primarily as a design consultant, actually within his own home.

Through an oversight on the part of Mr Visser, corporate returns were not filed with the provincial corporations tax branch, and on December 1, 1987, a notice of dissolution was sent to Mr Bax at the corporation's previous address. Unfortunately, the corporation was no longer at that address. Mr Visser was not aware of this error until 1990, and at that time, with the aid of his accountant, Mr Hazlitt, of Sarnia, he filed all of the missing corporate returns for the corporation. In July 1990 he, as I said, filed the requisite returns, and in correspondence with the Ministry of Revenue he actually requested the revival of the corporation. Unfortunately, he was not advised and did not seek the advice of a lawyer or his accountant that he actively had to make application by way of articles of revival. That was not done.

Subsequently, Mr Visser took on other shareholders as partners. They are the current shareholders, Mr Vander Linde and Mr Banovsky. They expanded from simply

design consulting to actively designing and fabricating once again. Mr Vander Linde and Mr Banovsky, in December 1991, bought out Mr Visser's interest, paying fair market value at the time. As the five-year period has elapsed to allow for articles of revival to be filed, our only option was to apply for a revival by way of the private member's bill before you.

We have been made aware of an objection to the revival from a competing Sarnia corporation, Alloy Fabricating Ltd, based on what I understand to be what they perceive as unjust enrichment. I wish briefly to speak to that.

Firstly, the shareholders of the corporation purchased the shares, including all of the corporation's assets, in 1991 at fair market value. Secondly, the assets of the corporation, if it was dissolved, were owned by the shareholder, Mr Visser, including the goodwill, equipment and processes, and were bought in 1991 by the current shareholders. Therefore, it's my submission to you that no party is being unjustly enriched, as fair market value was paid to the person who had ownership of the corporation's assets. I do submit to you that in objecting to the revival, the competitor is taking an advantage to reduce local competition.

I submit to you that the revival of this corporation is done in good faith, by persons who have paid fair market value for the assets and for no improper purpose. Further, the reason for the default—that is, the failure to file the corporate returns—was remedied, as evidenced by the correspondence that I provided to you, and further by the affirmation of the federal and provincial tax departments more recently upon this application.

I have provided to you a copy of the notice of dissolution, which was addressed to Mr Bax at the corporation's previous address at Wellington Street, which never reached Mr Visser, unfortunately. I've provided you with a part of the share purchase agreement from December 1991 that shows the purchase for fair market value of the outstanding shares for \$25,000 at the time. I have also provided to you a copy of a letter of July 1990 from Deloitte and Touche, providing copies of the mislaid corporate returns. Finally, I've provided to you, on the final page, a letter from Mr Visser in September 1990, addressed to the Ministry of Revenue, enclosing the tax returns and requesting that the charter be revived, which of course is not the role of the Ministry of Revenue. He should have taken it a step further and applied for articles of revival at the time.

I thank you for your attention in this matter. If there are any questions, I'd be pleased to answer.

The Chair: At this moment I think it would be appropriate to hear from the representative who is listed as an interested party. I call Mr Roger Lefebvre.

1010

Mr Roger Lefebvre: My name is Roger Lefebvre and I represent Alloy Fabricating in these proceedings. We're a company that competes head to head with Tuberate for the same business in our community.

My only objection to the application here at this time of course is that the principals in Tuberate at the time are no longer principals of that company and the application is being made by two people who at one time worked for Alloy Fab. We're objecting to the fact that the original principals of Tuberate Ltd are not making the application. It's coming from two different owners altogether. That's basically the gist of my trying to prevent this from going through.

The Chair: I would ask if the parliamentary assistant has any comments to make regarding this application.

Mr Pat Hayes (Essex-Kent): Actually, it doesn't really affect Municipal Affairs. Therefore, we don't have any comments to make on this bill.

The Chair: Are there any questions?

Mr Ron Eddy (Brant-Haldimand): The question I'd like to ask is simply if—I guess I'd call it an oversight that the company wasn't kept registered. If that hadn't happened, would everything have been in order that the company would have continued to be a registered company and would the new owners, who, I believe it was mentioned, bought it out—it would have been in order for them indeed to have that name? It's a legal question.

The Chair: Possibly Mr Ruffilli could come forward. He might be able to answer your question.

Mr Ruffilli: If I'm reading your question correctly, but for the fact that Mr Visser omitted filing the returns for the 1986-87 period, then there is a chain of transition from the original incorporators in 1973 on through to the current owners. Each of the shareholders conveyed their interest in a valid manner for fair market value right up to the present owners.

Mr Eddy: I think you said that previously, but I just wanted it confirmed.

The Chair: Mr Hansen.

Mr Ron Hansen (Lincoln): No, my question's answered.

The Chair: Are there any further questions?

Mr Hugh O'Neil (Quinte): Just to be fair to the person who is objecting to it, I must say I don't really understand your objection or why you're really objecting to it or what you would like to see happen. Would you like to see this denied, and if so, why?

Mr Lefebvre: It was stated there was no unjust enrichment to be gained by the application for this particular bill here, but I believe there is.

Any time a company can establish itself in 1991 and be able to reap the benefits of saying it can date itself back to 1973, I don't know how you would phrase it, but it gives it an advantage in the marketplace because of the lengthy time it was in business. If they can say in fact

they established themselves in 1973 as opposed to 1991, that gives them 21 years of working experience that they would have on a company such as ours that established itself in 1987 and is working right up until today.

So there is enrichment there, and there are other enrichments too on behalf of well procedures that were generated by the former company that they would be able to use and things like that. So "no unjust enrichment": I don't believe that statement is correctly stated. I can't agree with it at all.

Mr O'Neil: But the thing is that if these individuals did buy the company when they did and there was an oversight in just doing the registration, I can't see where there was any real intention to—they bought it believing it was a company that had been registered.

Mr Lefebvre: If they did, the name was changed to Tuberate Heat Transfer Ltd, so I believe they did buy it knowing full well that the company was non-existent at the time. I don't know, I might be incorrect in this, but this is just how I perceive it.

Mr Ruffilli: If I could shed some light on that, the company was known as Tuberate Heat Transfer Ltd at the time of the acquisition and subsequent to that they filed articles of amendment to amend the company to a shorter name, Tuberate Ltd. I would accede to Mr Lefebvre's suggestion that there would be unjust enrichment if in fact, for example, the shareholders of record had voluntarily dissolved the corporation and then someone had come out of nowhere and said, "Let's attempt to revive a company and, without paying anything for it, acquire its goodwill and its processes." That's not the case in this instance. That's to me the differentiation.

The Chair: Are there any further questions? Seeing none, I would ask if members are ready to vote.

Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

The bill passes. I want to thank both the applicant and our interested party for coming forward and making their views known. Thank you very much.

NORTH TORONTO BUSINESS AND PROFESSIONAL WOMEN'S CLUB ACT, 1994

Consideration of Bill Pr104, An Act to revive North Toronto Business and Professional Women's Club.

The Chair: Good morning, Ms Poole. Make some opening remarks and introduce the applicant, please.

Ms Dianne Poole (Eglinton): I am pleased to be here this morning as sponsor of the bill, North Toronto Business and Professional Women's Club Act revival.

As often happens with volunteer organizations, they aren't aware of the legislative requirements in keeping the incorporation valid. In the case of North Toronto Business and Professional Women's Club, they did move their premises in 1982 and therefore the notices did not follow them and they did not give notice to the ministry that in fact they had moved the premises.

It is sheerly through oversight that the filings have not

been made since 1982 and I might say that this club, of which I am a member, is a club that involves strong advocacy on behalf of women. They do fund-raising for the North York Women's Shelter and they support many worthy women's projects in the city of Toronto. I would be very appreciative if members would support this bill.

I would like to now introduce Paul Crum-Ewing, the solicitor for the applicant.

Mr Paul Crum-Ewing: All I can add is that the club is a member of the Canadian Federation of Business and Professional Women's Clubs and it is the only women's organization in all of Canada whose primary purpose is to advance the status of women. I would say that way back, I think in the 1930s, the federation had advocated equal pay and equal employment opportunities for men and women, so the club has a very strong tradition of furthering the cause of women. That's all I wish to add.

1020

The Chair: Thank you, Mr Crum-Ewing. I would like to ask if there are any interested parties who wish to come forward at this point to speak to this bill. Seeing none, I will open questioning, and Mr Mills was first.

Mr Gordon Mills (Durham East): It's not a question but just a comment. It's Volunteer Week, and I'm going to support the revival of this.

Mr O'Neil: What year was the club founded?

Mr Crum-Ewing: The club was founded in 1957. The charter was granted in 1957.

Mr Hansen: Did you want to become a member there, Ron?

Mr O'Neil: You're not going to ask a question?

Mr Eddy: I was, but I better not. I wouldn't mind being guest speaker, but I don't think I qualify to be a member. I thank the sponsor for coming forward to sponsor this bill. As the sponsor is a member, I know she will undertake to see that this never happens again, so I do support the application.

Ms Poole: For life? I will do my best, Mr Eddy.

The Chair: I think you two can work this out in your own caucus. We don't want this to come to blows.

Mr O'Neil: I wasn't going to ask, and I likely shouldn't ask it, whether Mrs Poole was a founding member of the organization.

The Chair: I know she was far too young to be able to be a member in 1957.

Mr O'Neil: That's what I was thinking too.

Ms Poole: Yes, Mr O'Neil, as a mere child at the time, although I have always supported the women's movement strongly, I didn't get active quite that young.

Mr O'Neil: So it's on the record.

The Chair: I'd like to ask members if they are at this point prepared to vote on the bill. Yes. All right.

Mr Hayes: We don't object either.

The Chair: I'm sorry. Mr Hayes, did you have any remarks to make about this bill?

Mr Hayes: The Ministry of Municipal Affairs does not object to this bill because of the great job Mrs Poole has done in presenting it today.

Mr O'Neil: I'd use that quote in the future, too.

The Chair: Thank you, Mr Hayes, and let us get back into our appropriate voting procedure.

Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you, Mr Crum-Ewing and Ms Poole.

Ms Poole: May I convey the gratitude of the North Toronto Business and Professional Women's Club to the members of the committee. Thank you.

CITY OF HAMILTON ACT, 1994

Consideration of Bill Pr24, An Act respecting the City of Hamilton.

The Chair: If I could ask Mr Abel to join Mr Farr from the city of Hamilton, Mr Abel, perhaps you would make a few opening remarks and then introduce the applicants, please.

Mr Donald Abel (Wentworth North): On March 22 of this year I introduced for first reading Bill Pr24, An Act respecting the City of Hamilton, and I'm pleased to be here today on behalf of Brian Allick and Lorne Farr, who is the solicitor for the city of Hamilton. I believe Lorne has a presentation he'd like to present.

Mr Lorne Farr: Thank you, Madam Chair and members of the committee. To my left is Brian Allick, the manager of field services from the building department of the city of Hamilton.

This is an application by the city of Hamilton for special legislation to allow the city to make the offences under the zoning bylaw, the property standards bylaw, the interim control bylaw and the site plan control bylaw offences under those bylaws.

Before 1983, when the Planning Act was passed, the zoning offences were an offence under the bylaw. When the 1983 Planning Act was passed, those offences became offences under the Planning Act although the bylaws were allowed to be enacted under that act.

The Legislature, in December 1992, gave the city of London legislation, chapter Pr49, the same powers that the city of Hamilton is requesting tonight. There are precedents for allowing the municipality to have the fine structure in its own bylaw. As I said, the City of London Act allows the city of London to do the exact same thing that the city of Hamilton is asking for, and the Building Code Act, another provincial legislation, allows the municipality to collect the fine for prosecutions brought under the Building Code Act by that municipality. The city of Hamilton legislation is very similar to the same drafting as the City of London Act.

Those are my comments, Madam Chair.

The Chair: Thank you. I would ask if Mr Allick had any comments to make at this point.

Mr Brian Allick: I have nothing to add, Madam Chair, other than should this committee see fit to pass this bill, it will certainly assist in the costs to the municipality of enforcing its bylaws.

The Chair: Thank you, Mr Allick. I would ask if there are any other interested parties here this morning who wish to come forward. Seeing none, I would turn to Mr Hayes and ask if there are any comments on behalf of the Ministry of Municipal Affairs.

Mr Hayes: Before I make any comments, actually, I'd like to ask a question of you. How much revenue do you feel you are losing under the existing system without having this bill? Do you have any indication?

Mr Allick: Last year, the penalties awarded for contraventions of these particular bylaws were in the region of \$8,000 for the city of Hamilton.

Mr Hayes: Those were the total fines?

Mr Allick: The total fines for this particular legislation that were levied for last year, sir.

Mr Hayes: Madam Chair, I just wanted to know that figure for the benefit of—

The Chair: No problem. I think we all found that illuminating.

Mr Hayes: Yes, thank you. Good. But the Ministry of Municipal Affairs does not object to this bill, and I understand that the Ministry of Finance hasn't really come out and objected to it and doesn't have representation here, so we are not objecting to this bill.

The Chair: Very good. I would open the floor to members. Mr Eddy.

Mr Eddy: I support the application and I would go so far as to hope that when a new Planning Act is presented, it's done in such a way that indeed all municipalities that operate—that a building inspection department have the same authority. I think we should get that back where it is, and I would have been prepared to support it regardless of the amount of money that is collected because I think it offsets the cost of a building inspection department, a very important department in municipal governments. So I support it.

The Chair: Thank you, Mr Eddy. No further questions? I would ask then if members are ready to vote.

Shall sections 1 through 5 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you very much, gentlemen. The bill is passed.

COUNTY OF ESSEX ACT, 1994

COUNTY OF ESSEX

LOCAL MUNICIPALITIES ACT, 1994

Consideration of Bill Pr103, An Act respecting the County of Essex, and Bill Pr108, An Act respecting the County of Essex and the Local Municipalities in it.

The Chair: I want to thank Mr Crozier, who has taken on the task that Mr Hayes normally would have undertaken so Mr Hayes can fulfil his obligations up here and Mr Crozier can do a good deed from the far end of the room. Mr Crozier, if you would like to make some opening remarks and introduce the applicants, please.

Mr Bruce Crozier (Essex South): It is my pleasure to represent Mr Hayes in this circumstance. As a lifelong

member of Essex county and a former mayor of Leamington in that county and now representing half of that county, it's my pleasure this morning to introduce to you John Curran, the administrator of the county, and Greg Stewart, the solicitor, here to make representation on these bills. They will introduce some others perhaps who are here with them as well.

1030

The Chair: Is it Mr Stewart or Mr Curran who would like to go first?

Mr Gregory Stewart: I'll be addressing. My name is Gregory Stewart and I am the solicitor for the county of Essex. As indicated by Mr Crozier, to my immediate left is Mr John Curran, the administrator of the county of Essex. We have in attendance this morning also Mr William Varga, the warden of the county of Essex; Mr Lyle Miller, the chairman of the strategic strengthening study committee for the county of Essex; Mr Tony DiBartolomeo, the chairman of the council restructuring subcommittee for the county of Essex; and Mr Joe Cimer, who is on the planning staff for the county of Essex. Obviously, the contingent that we have here this morning indicates the importance that we place on this particular legislation.

By way of background, the county of Essex currently consists of 21 municipalities and each of those municipalities currently has two representatives on county council, obviously a reeve and a deputy reeve. In the mid-1980s, as you all know, there was a series of reports by the province having as their aim the strengthening and streamlining of county government and municipal government. The reports made a number of recommendations, among which were suggestions that the size of county councils be reduced, that the heads of local councils sit on county council and that consideration be given to the names of the members of municipalities.

The county of Essex, and this is a historical process, has for a number of years been involved in a process aimed towards implementing those goals. In 1991, there was established an office of deputy warden in the county and there was the establishment of an executive committee in order to begin the efforts to streamline the county government process.

In February 1992, the council established a strategic strengthening study committee to review operations of county government and local government, generally in line with the recommendations that had come forward from the province over a period of years. That work in that committee has been going on since February 1992 and is ongoing.

As part of that process, a county council restructuring subcommittee was struck, consisting of members of county council, three mayors and three former wardens, to study the structure of county council and to make recommendations to county council as to any changes in that structure. That subcommittee came forward with a series of recommendations earlier this year, and county council, on the basis of those recommendations, determined to proceed immediately to have those recommendations to change the structure of county council implemented in the form of private legislation.

You have before you two separate pieces of legislation and they have arisen from the fact that the mandate that came from county council was to reduce the size of county council to provide for the heads of all local councils to sit on county council and to change the names of the heads of council and the deputy heads of council from reeve and deputy reeve to mayor and deputy mayor.

We were advised, and quite rightly, that the prerogative in regard to the first two matters—that is, the size of the council and the heads of the local councils sitting on county council—was the prerogative of the county. The issue of the names was the prerogative of the local municipalities. So the material was divided up into two pieces of legislation in order to effect that.

The 21 municipalities were polled in regard to the second piece of legislation, that being Bill Pr108, to determine their support for the change of the names of the members of county council. This was done in consultation with both the office of legislative counsel and the Ministry of Municipal Affairs on the basis that the alternative would be to introduce 21 individual pieces of legislation to effect the same thing. So the county of Essex is acting as the agent of those various municipalities that are listed in the schedule to that particular piece of legislation.

The legislation that has as its goal changing the numbers on county council, Bill Pr103, or the County of Essex Act, you will see uses the terms “head” and “deputy head” of council and then defines within that act, or will in a series of amendments that I understand are going to be introduced today, what those positions will consist of and then relate the sitting of various numbers on county council to various populations within the county.

The second act deals exclusively with the names and provides for the heads of all councils to be called mayors and provides for a permissive right on the part of any municipality to elect a deputy mayor at any point and to give that mayor powers under the provisions of the Municipal Act. It also provides that if any municipality is entitled to a second member on county council—and there would be three initially that would—that second member on county council would be referred to as a deputy mayor.

All of these wishes and suggestions have been encompassed within the two pieces of legislation and, within the span of those two pieces of legislation, cover all that has been mandated and cover it within the respective jurisdictions of the various municipalities.

With regard to the County of Essex Act, there is the support by vote of the county of Essex, obviously, which is what is needed in regard to that piece of legislation. With regard to the other piece of legislation, there is on the draft before the committee today the indication of support of 18 of the 21 municipalities. Subsequent to this—and the ministry has been advised of this and I understand appropriate measures will be taken today to deal with this—the township of Colchester North has also withdrawn its opposition to that piece of legislation. So it will apply to 19 of the 21 municipalities.

Just for clarification, if you pass the County of Essex

Act, it will affect all heads of council sitting on county council and will affect the numbers of county council. The second act will only affect those 19 municipalities which support it, and that is, the effect will be the change of name to mayor and deputy mayor in those particular municipalities.

I don't know whether this is the appropriate time to comment on it. I will, and if the Chair thinks it is not, I assume she'll rule me out of order. There is a letter that has been delivered by the town of Belle River this morning, and I wonder if I might comment on that for a minute.

The Chair: What I had thought appropriate to do was, at the point of raising the issue of interested parties, to make mention of this and then allow for comment. If the members are in agreement, I would then flag that at this moment and allow Mr Stewart to continue in his current vein. Any objections to that? Seeing none, all members have then been duly advised of this particular piece of correspondence, and if you would then continue.

Mr Stewart: I can comment on that correspondence.

The Chair: Yes, please.

Mr Stewart: Just for clarification, the town of Belle River delivered correspondence to you yesterday and in it they make five different comments. I believe it's important that these be clarified.

Their first concern has to do with the notice as to the hearing, and obviously that's not anything that we have any control over. We are not aware of any problem with the notice being given. Certainly, any time requirements for notice of the legislation were complied with and the evidence of that has been supplied to the office of the clerk.

1040

The Chair: If I could interrupt at this juncture momentarily, the clerk advised me that what might be the cause of the discomfort on the part of Belle River is that usually there is a little bit more time from when the bill is actually read in the House to when it is called before committee.

As the time factors were somewhat abbreviated, they feel, I guess, that the usual time factors were not in place. But there is no requirement for X number of days to elapse between the actual reading of a bill and it coming before this committee. You have obviously, as the county, complied with all of the appropriate notice features of bringing any private member's bill forward, so I think you have, again, clarified the situation and I hope my comments clarify why this bill is on the agenda today.

Mr Stewart: In their second comment, they're indicating that, “If the makeup of the town council is to be altered, it should be decided by a vote of municipal councils in the region and not by county council,” and indicate that it is their information “that the matter in question received only a four-vote majority.”

I'm advised by the administrator that this is not correct, that 19 members of county council voted in favour of that legislation. We are here on behalf of 19 municipalities who have clearly indicated their support of

the second piece of legislation, and in the case of the first piece of legislation, 19 out of 21 members voted in support of it.

Items 3 and 4 are basically premised upon the statement that is made in item 2. The various town councils have been adequately polled and allowed to vote on their own makeup. As a matter of fact, when it appeared that there might be some difficulty in coming here with one piece of legislation to change the names, there was a point at which I had been directed by 18 or 19 of the 21 municipalities on their behalf to prepare 19 separate pieces of legislation. So they were definitely intent on getting this thing through.

As far as item 4, the reduction of the number of representatives on council, they suggested than an individual municipal vote should be taken. This was more than adequately canvassed with the individual municipalities. Certainly the numbers on county council ultimately is a decision to be made by county council, and we feel it has been adequately addressed.

Item 5 with regard to substitutions: Our legislation does not affect that issue. There are provisions in the Municipal Act which somewhat deal with the question of substitutions on county councils, although my review of the legislation indicates that this issue has never been properly clarified by the courts. It's up in the air. Our legislation doesn't change anything. They're in the same position after the legislation is passed as they would have been before.

One further comment, just in passing: Our County of Essex Act does not affect the issue of plural votes in the county. The total votes of any local municipality on county council are not to exceed 10%, and within committee the members will remain having one vote.

So the net effect of the legislation is, in summary: The heads of council will all sit on county council and the mayors of the towns would now sit on county council, the feeling being that it's important that those who run the individual municipalities be there and have the input and have the opportunity to have the input. That's certainly in line with the trend that the province has been recommending over a number of years. The size of the county council in the county of Essex would be reduced from 42 to 24.

Having myself, and this is one of the things that makes it an honour to be here today, been a former warden of Essex county, I'm acutely aware of the difficulties in dealing with 42 members. I recall that on one occasion we had to find another room to meet in and we couldn't find a room that we could all fit in comfortably. So the number is much more compatible with proper business, and the change of the names in the second act to "mayor" and "deputy mayor" is simply to bring matters in line with the times. Many people don't know what a reeve is and don't know what a deputy reeve is. They know what a mayor is and they know what a deputy mayor is.

We would thank you for the opportunity to have been here today and we would ask urgently for your earnest attention to this bill.

The Chair: I'd like to make one observation here

before I ask if there are any other additional people in the audience today who might wish to come forward.

Mr Stewart has made remarks relating to two bills and those are Bill Pr103 and Bill Pr108. He's definitely referred to both those, the county bills relating to the name changes as well as the actual voting structure of the council. So people should realize—I would suggest, and I obviously can be corrected on this—that since the presentation has been made in that regard, we won't revisit that; we won't go back to have Mr Stewart make remarks about Bill Pr108. Are folks in agreement with that? Thank you. Just for the interests of time, otherwise we could be here much longer.

Mr Stewart: I apologize if I got out of order on that. It was important that they be understood together.

The Chair: And I think that the context in which you framed your remarks is appropriate. It's just that members should be advised that—they probably took it in that way—there's really no point in going back and repeating it all over again.

I would ask then if there are any other interested parties who wish to come forward on these two matters, Bills Pr103 and Pr108. Seeing none, I have questions from the members, and the first person is Mr Hayes.

Mr Hayes: I take offence to that one remark, about people don't know what the reeves are, being a former reeve. In rural Ontario, they do.

The Chair: I always wondered what they did.

Mr Hayes: Okay. The Ministry of Municipal Affairs does not object to this. Actually, the proposals do meet the criteria used by the ministry to review representational issues, and I believe these bills actually address the representation by population, and I think that's very important. We do not have any objections.

Just for the members, I know the Chair mentioned about the notification. Of course, that is done through the clerk's office. Of course, we introduced the bill last Wednesday in the House and they notified the municipalities the first thing on Thursday morning, or at least, Thursday, just so you'll know on that particular issue.

We do not have any objections to these bills.

The Chair: I'd like to then turn to Mr Johnson.

Mr Paul R. Johnson (Prince Edward-Lennox-South Hastings): Thank you, Mr Stewart, for a very detailed explanation of Bills Pr103 and Pr108. You explained it so well that there are very few questions, I suspect. However, I was just wondering, those two municipalities that did not want to opt in to the name change, will they continue to sit on county council as reeves?

Mr Stewart: Interestingly enough, in that particular case, being both towns, the members of their council who will sit on council are both mayors, so it will have no major effect.

Mr Paul Johnson: I see. With regard to that as well, I wasn't clear on whether deputy mayors could sit in the place of mayors at county council, or if you plan to do that or allow that.

Mr Stewart: No, there's plan in that regard and this legislation that we're proposing doesn't touch that. Under

the current provisions of the Municipal Act, there are a couple of sections—section 71 and subsection 69(3), I believe it is, or (2). There has been some attempt to interpret those, not by anyone in the county of Essex, to allow for substitutions. There have been a couple of decisions on it. The major one was in, I believe, Mississauga, and it had to do with a separate piece of legislation. So from what I understand, there's never been a judicial interpretation of those sections.

1050

Mr Paul Johnson: Is there any precedent case law with regard to this?

Mr Stewart: There's one piece of legislation that didn't deal with the Municipal Act. It dealt with a specific piece of legislation and was an oddity in that regard. The question arises out of the interpretation in the act indicating that a council can vote to have a member take the place of the head of council on any board or commission or other body of which he is by virtue of office a member except for a police commission. There is an interpretation that the head of council is not on county council by virtue of office. If you look at the definition of "head of council" in the Municipal Act, it doesn't list sitting on county council. That power comes under another section.

So, according to that argument, there would be no substitutions. But there are those that say that's what that section means. It's never clearly been interpreted by a court. We may be the first one to deal with it. I don't know. But certainly the county council and the local municipalities dealt with this act having been apprised of that information. The issue of substitutions has not come up within the context of this act. That remains, I guess, for another day and another venue.

Mr Paul Johnson: County restructuring has certainly become popular as counties try to bring their representatives into manageable numbers. I suspect that this will probably bode the county of Essex well, and I wish you the best.

Mr Eddy: Following up on Mr Johnson's question, the only precedent I know of of substitution on county council is the county of Hastings, which enacted its own bylaw and practised that for a number of years and may still be using it. But of course it's still, as you said, questionable as to the legal authority for that. But Hastings county council did operate that system and maybe is still.

I'd like to commend the delegation from Essex county for bringing forward the application, because it's certainly an important move to reduce the size of county council to make it a more workable size. Certainly I know the many benefits of that. It is a trend too, because in Lambton county the elected heads of all local municipalities are mayors and sit on county council. Your neighbour, that was done by government legislation a few years ago, and in the restructured county of Oxford of course our mayors sit on county council. I believe that the government just did that late last year with Simcoe county, didn't we? Local elected heads are mayors and they sit on county council. So it's an important step forward.

I realize it's sometimes an agonizing process to go through this, but I commend you for coming forward with this application, and I fully support it. I know that there are going to be other counties before us as well.

Mr Chris Hodgson (Victoria-Haliburton): I'd just like to say that I too, like Mr Eddy, come from a municipal background, as a past warden. I support this bill. I recognize it takes a lot of fortitude to push ahead with reducing the size of government and to try to serve your taxpayers more efficiently and provide the services that they demand today with less and less money. You mentioned that 19 of the 21 municipal governments are in favour of this. I am curious to know, what was the voting with the deputy reeves, or what now would be the deputy mayors? How did they support the bill?

The second thing is, the town of Leamington on January 28, 1994, had a concern about this interpretation of subsection 69(3). You've resolved that. It wasn't really a dispute; they were just questioning. I think you've answered that question, but if you'd like to comment on both that and the deputy reeves' voting.

Mr John Curran: Perhaps I could speak to the first part of your question. I wasn't privy to the actual registration of who voted what way in the local councils, but I can tell you that of the 21 municipalities, at a meeting of their own local council, 19 passed a resolution supporting the name change and the change in the composition of county council. So whether the actual deputy reeve voted against it or not, it was still the majority wish of the local council in 19 out of 21 instances that it be changed.

Mr Hodgson: How did they vote at county? Did they vote together at county, the reeve and the deputy reeve?

Mr Curran: I believe we have that information somewhere—

Mr Hodgson: I was just curious. That's not going to affect my vote.

Mr Curran: —but I don't have it to recall, I'm sorry. I do believe it's part of the information that we gave to the clerk's office. It is available.

Mr Stewart: There are certainly deputy reeves who voted in favour of the legislation, a surprising number of them.

Mr Hodgson: There must have been, yes.

Mr Curran: I just might point out that the chair of the subcommittee is a deputy reeve from one of the towns. Mr DiBartolomeo is a crusader.

The Chair: Mr Crozier, did you want to weigh into the discussion at all?

Mr Crozier: Not at all. I'll just let it go along smoothly.

Mr Stewart: If I might, in regard to the question dealing with the town of Leamington, that's a rather unique situation in that the clerk for the town of Leamington is a solicitor; he is a clerk-solicitor. There were some conversations that we had and some discussions and some correspondence back and forth dealing with that interpretation on the issue of substitutions and various things, but they were all within the context, and I believe

that letter, if it's the one I think it is, indicates very clearly that in no way did they mean to indicate they were opposing the legislation. But it was sort of a lawyer's discussion.

Mr Hodgson: Yes, that's what I gathered from it.

The Chair: Mr Eddy, you had an additional remark to make.

Mr Eddy: I've been accused many times of giving history lessons but I think it's interesting to note, because we have time, that in Britain, to be a municipal clerk you must be a solicitor. I hope that we haven't reached that stage of complexity yet, but we're fast approaching it in Ontario.

The other thing is that at one time Essex county council was the only county in Ontario that had a mayor of a town sitting on county council, and that was the mayor of Ojibway, for many years. Just history. Thank you.

The Chair: Thank you, Mr Eddy. I won't make any additional comments at this point, and will ask the members if they are ready to vote, first on Bill Pr103, and then we'll move right into Pr108. Do I hear any comments for or against voting? Are you agreed to vote? Yes.

We'll start off with 103. Shall section 1 carry?

Mr Mills: I have an amendment.

The Chair: You have to be fast off the mark, Mr Mills.

Mr Mills: I am usually very fast. Okay.

I move that section 1 of the bill be amended by adding the following subsection:

"Interpretation

"(2) In this act,

"(a) a reference to a head of council is a reference to a mayor of a town and to a reeve of a township or village; and

"(b) a reference to a deputy head of a council is a reference to the reeve of a town and to the deputy reeve of a township or village.

"References

"(3) The references to 'mayor,' 'reeve' and 'deputy reeve' refer to those positions as they exist under the Municipal Act even though other titles may be used in a municipality to describe the same positions."

The Chair: All those in favour of the amendment? Agreed.

Shall section 1, as amended, carry? Carried.

Shall section 2 carry? Carried.

Section 3?

Mr Mills: Amendment, Madam Chair. Subsection 3(2): I move that subsection 3(2) of the bill be amended by adding after the word "off," in the second line—I beg your pardon, by adding after "of," one f and not two—"the members of."

The Chair: Thank you. We like to be precise about these matters. Shall the amendment carry? Carried.

Shall section 3, as amended, carry? Carried.

Shall sections 4 and 5 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report the bill to the House? Agreed.

Very good, that deals with Bill Pr103.

We'll turn to Pr108. Members are then ready to vote? Very good.

Shall sections 1 through 4 carry? Carried.

Mr Mills: I have an amendment, Madam Chair.

The Chair: To section 5?

Mr Mills: To section 5.

I move that section 5 of the bill be amended by striking out "as they existed at the coming into force of this act" at the end. To make sense of that, you have to read it.

The Chair: That's very good. I have done so, so it does make sense to me.

All those in favour of the amendment? Agreed.

Shall sections 6 and 7 carry? Carried.

Shall the schedule carry?

Mr Mills: I have an amendment to the schedule, Madam Chair.

I move that the schedule to the bill is amended by adding the following municipality: the Corporation of the Township of Colchester North.

The Chair: All those in favour of the amendment? Carried.

Shall the schedule, as amended, carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall the bill be reported to the House? Agreed.

Thank you, the members from the county of Essex, and I'd like to thank my colleagues for their time and effort.

The committee adjourned at 1102.

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STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

- ***Chair / Président:** Haeck, Christel (St Catharines-Brock ND)
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- Johnson, David (Don Mills PC)
- *Jordan, Leo (Lanark-Renfrew PC)
- *Mills, Gordon (Durham East/-Est ND)
- *O'Neil, Hugh P. (Quinte L)
- *Perruzza, Anthony (Downsview ND)
- Ruprecht, Tony (Parkdale L)

**In attendance / présents*

Substitutions present/ Membres remplaçants présents:

Abel, Donald (Wentworth North/-Nord ND) for Mrs MacKinnon
Crozier, Bruce (Essex South/-Sud L) for Mr Ruprecht
Hodgson, Chris (Victoria-Haliburton PC) for Mr David Johnson
Johnson, Paul R. (Prince Edward-Lennox-South Hastings/ Prince Edward-Lennox-Hastings-Sud ND)
for Mr Fletcher

Also taking part / Autres participants et participantes:

Hayes, Pat, parliamentary assistant to Minister of Municipal Affairs

Clerk / Greffière: Grannum, Tonia

Staff / Personnel: Klein, Susan A., legislative counsel

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Troisième session, 35^e législature

Official Report of Debates (Hansard)

Wednesday 27 April 1994

Journal des débats (Hansard)

Mercredi 27 avril 1994

Standing committee on
regulations and private bills

Comité permanent des
règlements et des projets
de loi privés

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
REGULATIONS AND PRIVATE BILLS

Wednesday 27 April 1994

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS
ET DES PROJETS DE LOI PRIVÉS

Mercredi 27 avril 1994

The committee met at 1007 in committee room 1.

CITY OF BRAMPTON ACT, 1994

Consideration of Bill Pr107, An Act respecting the City of Brampton.

The Chair (Ms Christel Haeck): Ladies and gentlemen, our first order of business is to deal with Bill Pr107. We are missing Mr McClelland. Mr Eddy, would there be the chance that since we have the applicant waiting quite patiently, you might pinch-hit momentarily?

Mr Ron Eddy (Brant-Haldimand): It's an honour and a pleasure.

The Chair: I'd like to thank Mr Eddy. Would you ever so briefly introduce the applicant and we'll move ahead with Bill Pr107, An Act respecting the City of Brampton.

Mr Eddy: I'm pleased to be here to sponsor and endorse Bill 107, An Act respecting the City of Brampton. With me is Mr Clay Connor, deputy city solicitor, who will speak to the bill at this time.

Mr Clay Connor: Our bill is basically modelled on the City of Kitchener Act, SO 1977, chapter 90, regarding the leasing or licensing of air space over lands on a highway or subsurface rights. Our bill seeks to extend the powers which were granted to the city of Kitchener to permit the sale of the air and subsurface rights.

I guess any time you want to do something new, the logical question is why, and I'm basically here to try to explain why. I brought a diagram that might help. Is it all right if I stand?

The Chair: Just as long as Hansard can pick you up.

Mr Connor: The request for this bill arose out of negotiations regarding the redevelopment of the Queen's Square parking lot in downtown Brampton, which is pictured here. The redevelopment would see the construction of a new road link running from Nelson to Chapel Street. This was identified as a necessary road improvement to allow downtown Brampton to grow.

The environmental assessment for this road project has been completed and approved, and this project is being considered by Brampton council as one of the projects it might bring forward for the federal-provincial-municipal infrastructure program.

Other aspects of the redevelopment would see the construction of an underground parking garage to replace the surface parking—it would be under here—construction of a market building and retail at surface level and construction of a high-rise residential building which would span the road in this location.

The planning studies we've done for the downtown identified the need to get more residential people downtown to help spur the downtown growth, and we feel this project would help do it.

I guess the next question is, why do you have the building going over the road? We asked that of the proponent as well and basically there are two reasons. The primary reason is one of phasing. The proposal is to build the underground parking, which would cover most of the lot and also extend under the future road connection. They plan to build that and the commercial first. They say they cannot come back and put a residential building on top of an already finished parking structure. They'd like to keep that separate and do it in a separate phase.

The second reason is density. In order to get enough density on the site to make it financially viable for the developer to contribute his proposed share to the road project, he needs a certain density, and the only way to achieve that is to have the building spanning the road.

The next question I guess I should address is, why permit the sale of the air and subsurface rights? The proposal is that the building may well go condominium, and to enable the units to be sold to their purchasers and comply with the requirements of the Condominium Act, they'd have to own the air rights and the subsurface rights. The subsurface rights would allow the construction of a connection from the parking garage to go under the road and connect with the parking for the residential building, and that would be folded in as part of the common elements.

To give you an idea of what it would look like, I can refer you to another project that's already up in downtown Brampton. I have just two copies of the photograph and I can pass one out on each side. What I'm passing around is an artist's rendering of the KM terminal building and also a very small photograph to show that, for once, what got built looks like the artist's rendering. That doesn't happen very often. This was a joint public-private sector development, and the actual location of it is right over here, if the map is to be extended.

What we have is a transit terminal site. The city leased the air rights to a developer to build the office building. You can see that there are two busways cut out of the building that the buses go under. If you can picture on this site a higher building with a bigger busway, that is practically what it would look like.

We've asked for general legislation as opposed to it being site-specific because we can foresee other redevelopment opportunities in Brampton, particularly the

downtown, where this power might be useful to us. There are a number of back service lanes. Some of them are shown on this map. The one over here goes this way, and a little lane here as well. We feel that having this power would be a useful tool to facilitate redevelopment and make better use of land.

In Brampton we're proud of how we've been able to combine public and private sector initiatives like we did on the transit terminal building, and through this application we're asking you to help us make Queen's Square a possibility.

Before concluding, I'd like to thank Mr Eddy and Carman McClelland for sponsoring the bill, and the also the staff of the various ministries who've reviewed it, and in particular Linda Gray from Municipal Affairs and Lucinda Mifsud from the legislative counsel office. Both these ladies have always been knowledgeable, friendly and helpful to me any time I've contacted them.

I'd be pleased to answer your questions.

The Chair: Thank you, Mr Connor, for an informative presentation. I would at this point ask if there are any other interested parties with regard to Pr107 who would like to come forward and present at this time.

Seeing none, I will turn to Mr Hansen.

Mr Ron Hansen (Lincoln): I was just wondering about the air space. I'm trying to get the location to the closest airport. Normally, the air space is 200 feet up—is that not correct?—owned by an individual unless otherwise stated.

Mr Connor: The air space we're talking about here is the air space in the busway, between the road level and the level of the building. That's the air space we're talking about.

Mr Hansen: Okay. I heard you talking about the buses being able to go through there. Reading the bill, I was trying to picture where the airport was and the air space to be leased, which is done in a lot of cases.

Mr Connor: That section of the bill is meant to address sort of the chicken and egg question of what comes first, the building or the road. What we would do presumably is build the building first, build the road, and then by bylaw establish it as a public highway, rather than the other way around.

Mr Hansen: I was a little confused on the number of storeys of the building and why air space was required. I heard your explanation but I didn't know what air space you were talking about. Thank you.

The Chair: Mr Eddy, any questions?

Mr Eddy: No. I support the application.

The Chair: Mr Hayes, any comments from the Ministry of Municipal Affairs?

Mr Pat Hayes (Essex-Kent): The Ministry of Municipal Affairs does not have any objections to this bill.

The Chair: I would like to ask the members if they are at this point ready to vote. Agreed.

Mr Hansen: Madam Chair, was there no comment from the Ministry of Transportation on this particular issue?

The Chair: I believe Mr Hayes would have addressed that, but let's pose the question to him again. Were there any concerns by the Ministry of Transportation regarding this project?

Mr Hayes: The Minister of Transportation actually wanted the bill to specify that approval of the minister would be necessary for connecting links. They were also concerned about a provision which initially waived notice of requirements under the Municipal Act. These requirements were intended to provide recourse to individuals whose properties might be prejudicially affected by the leasing or selling of all or part of the land. But Brampton agreed to move that particular provision and the Ministry of Transportation had no objections after that.

Mr Hansen: Okay. Thank you.

The Chair: I will pose the question again: Are we ready to vote? Agreed.

Relating to Bill Pr107:

Shall sections 1 through 4 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

The bill is carried, Mr Connor, and it will be reported to the House today, as a matter of fact.

Mr Connor: Very good. Thank you.

The Chair: Thank you for your time.

TOWN OF NAPANEE ACT, 1994

Consideration of Bill Pr70, An Act respecting the Town of Napanee.

The Chair: Our next order of business is Bill Pr70, An Act respecting the town of Napanee. I'd like to call forward Mr Johnson, MPP for Prince Edward-Lennox-South Hastings, and Mr Hubert Hogle, solicitor. Mr Johnson, if you'd like to introduce the applicant and other guests, we'll proceed.

Mr Paul R. Johnson (Prince Edward-Lennox-South Hastings): As sponsor of the bill, I'd like to introduce to you Hubert Hogle, solicitor for the town of Napanee. With him is Jack McNamee, clerk-administrator of the town of Napanee. I think Mr Hogle would like to make some comments with regard to Bill Pr70.

1020

Mr Hubert Hogle: Thank you, Mr Johnson and Madam Chair. This is a bill to permit the town of Napanee to pass a bylaw to reduce the number of councillors. It's required because section 31 of the Municipal Act provides that the council of a town having a population of less than 5,000, which Napanee does, is composed of six councillors, and it's desired to reduce those to four. There's provision in the Municipal Act for this to be done, but the bylaw must be circulated. There must be a plebiscite in order to do this, and because of the fact that these plebiscites would normally be held at the municipal election, it means a delay of three years in getting this through. The town of Napanee would like to be able to reduce the number of councillors in time for the next municipal election this fall, and that's the reason that

we're requesting this exemption. The fact that this is being done by way of private bill rather than going to the expense of a plebescite to be held some time in the summer has been well publicized in the town of Napanee. There is no opposition that's known to this provision. I think it follows a trend that we're seeing across the province to reduce costs where possible and to reduce the number of councillors in some cases where it would lead to a more efficient administration and some cost saving.

I think the bill is fairly straightforward. I've set out the legislation as it applies to this particular situation, and I understand there is one amendment proposed to require that the bylaw, if it is passed—the bill is merely enabling. It permits the town of Napanee to pass a bylaw, and the amendment would require that this be done, if it is done, at least 30 days before the time for the election. I've seen the proposed amendment. I don't see any problem with it and I can understand the reason for it.

Mr McNamee and I can answer any questions, if any members have questions.

The Chair: Did Mr McNamee want to make any remarks at this point?

Mr Jack McNamee: No.

The Chair: I do have to ask if there are any other interested parties who wish to come forward at this time to make any comments. Seeing none, I will turn at this point to Mr Hayes and then to the members.

Mr Hayes: The ministry does not object to this bill, as there has actually been a precedent set with the Bothwell bill, if you'll recall, except that we won't object to it as long as the amendment is carried, if someone wants to do that.

The Chair: All right. Are there any questions on behalf of the members?

Mr Hansen: I would say that with the amendment, the government will support this bill.

The Chair: Any further comments? Seeing none, I would ask if the members are ready to vote. Agreed? Agreed.

Regarding Bill Pr70, An Act respecting the Town of Napanee, shall sections 1 through 3 carry?

Interjection: Amendment to section 1.

The Chair: Okay. Shall section 1 carry?

Mr Gordon Mills (Durham East): No.

I move that section 1 of the bill be amended by adding the following subsection:

"Time for passing of bylaws

"(2) A bylaw passed under subsection (1) or a bylaw repealing it shall be passed not later than 30 days before the last day for posting notice of the offices for which persons may be nominated in accordance with the Municipal Elections Act."

The Chair: Are members in favour of that motion? Anyone against? Seeing none, shall section 1, as amended, carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill, as amended, to the House? Agreed.

Thank you, ladies and gentlemen. To the two gentlemen, Mr Hogle and Mr McNamee, thank you very much for your time; Mr Johnson as well.

TOWN OF MARKHAM ACT, 1993

Consideration of Bill Pr41, An Act respecting the Town of Markham.

The Chair: We'll move right along. We have our next order of business, Bill Pr41, An Act respecting the Town of Markham, if Mr Cousens and the applicants would come forward, please.

Mr Cousens, if you'd like to proceed with introductions and a few opening remarks.

Mr W. Donald Cousens (Markham): I'd like to introduce, first of all, on my left, Mr Rob Robinson, solicitor for the town of Markham; on my right, Mr Malcolm Stanley. Mr Stanley is the president of the association of condominiums within the town of Markham. Also with us are a number of representatives from the York region condominium corporations: Mr Jack Fitch, Miss Marilyn Byers, Mr George Sauvé, Mr Robert Best, Betty Favreau, Bruce Williams, Joe McGuire, and Mr William Campbell. So I have them with me as well to review this process.

We've gone back a long time in order to begin what we're here with today, Bill Pr41. When you see the commitment that has been shown by the whole community towards this bill, I have first of all to commend the leadership of the condominium owners who have tried to find ways of improving equity between the condominiums and residential properties and the town of Markham, as represented today. But our mayor, Frank Scarpitti, and members of council have also been very, very supportive of this and in sponsoring the bill have shown a unanimous commitment to it.

When I personally brought in a bill very similar to this a few years ago as a private member's bill, it, as do so many of those bills, died on the order paper after a private members' period. But since then this whole issue has continued to bring out more and more debate.

I'd like to just refer to a couple of very supportive statements that have been made along the way, one in a letter that has been circulated by Mr Ed Philip when he was MPP for Etobicoke. He wrote a letter on November 8, 1983, to St George Property Management Inc, and he enclosed the Hansard of when he spoke in the Legislature on Tuesday, November 1, 1983. Just to take one quote, which I didn't circulate: "There is currently no systematic approach being used to rectify the condominium/single-family inequities that may exist."

He had a very extensive speech on that date and circulated it to people around the province. One of the things Mr Philip said in his covering letter, which I copied, is:

"The results are conclusive: 1. Condominium owners are overtaxed in comparison to owners of detached

homes. 2. Luxury condominiums are taxed less than middle- and low-priced condominiums.”

Also, we received what I thought was a very supportive letter—and I thank the minister in public for his support, which he delivered to our mayor and copied me on February 18 of this year—in which he complimented council for the initiative in trying “to develop a fairer property tax system in the municipality.”

He supports “the principle of council’s proposal, namely that discretion should exist to adjust tax levies in recognition of the fact that certain municipal services are not being provided to all town ratepayers. In fact, the Fair Tax Commission also made a somewhat related recommendation supporting greater dependency on user charges where the beneficiary of services can be determined.” That really has a lot to do with the intent of Bill Pr41.

Let those be my preliminary remarks. I will defer, if I may, Madam Chair, to Mr Robinson for his comments, and then if you would allow Mr Stanley to have a few words, I’d be most grateful.

The Chair: I would just like to then clarify for all members that Mr Stanley will be speaking on behalf of the list of other representatives.

Mr Cousens: Yes.

The Chair: We would like to ascertain—there are some other people who’ve just come in—and find out exactly if they’re relating to this bill or some other bill, but the clerk will clarify that point. So there would be no problem if Mr Stanley makes some remarks.

Mr Robinson, would you please proceed.

1030

Mr Robert Robinson: What we’re proposing before you today is what the town of Markham feels is a very basic, perhaps I could say, change to the Municipal Act. I trust everyone has been provided a copy of the compendium that we filed in support of the private bill. The reason why we’re asking that you pass this private bill is a result of the wording of the Municipal Act, and specifically section 362 of the Municipal Act.

We’ve reproduced section 362 at appendix B of your compendium. What section 362 says is, “All municipal taxes...shall...be levied upon the whole of the assessment for real property...and not...in different proportions.” In other words, a municipality cannot establish a different mill rate for separate classes of residential properties. That’s the problem that the town of Markham and other municipalities are facing.

What the town’s private bill would do, and that’s reproduced at appendix A, and you will have a copy of that before you, is allow the town to fix a different mill rate for residential condominium units. I think it’s important to keep in mind, first of all, that this would affect only Markham’s portion of the tax bill; it would not affect the regional municipality of York’s portion, nor would it affect the school board’s portion of the property tax bill.

Just for reference, in 1993 the town of Markham’s portion of the tax bill was 14.6% of the total property tax bill. I feel it’s important to keep it in mind that there would be no impact on the moneys going to the regional

government or the school boards. To give an example of why we feel that Markham should have this flexibility to set a different mill rate, we looked at three residential condominium buildings in Markham and compared their treatment in tax terms to neighbouring dwellings which were all single-family dwellings. We called this the sample area.

On page 10 of the compendium, we put together a chart which shows the result of some of these comparisons. If you look at the bottom of page 10, it shows the tax yield. That’s the money collected from those types of properties for services provided by the town of Markham. This is just dealing with the 14.6% collected by the town of Markham.

If you break down the tax yield by acre or by foot frontage, you can see there’s a very different treatment in terms of residential condominiums and residential houses, as we’ll call them. It’s a very significant difference in the tax yield that the municipality gathers from those types of buildings.

I would submit to you that it shows that the residential condominiums in Markham, in any event, are carrying a very high tax burden in relation to other forms or residential dwellings.

Pages 15 through 19 of the compendium—and I’m just going to go through briefly, because we don’t have time to go through it in detail—compare the services provided by Markham and talk about those services that are not available to condominium owners, or at least the high majority of the condominium owners, in the same fashion as those services are provided to owners of single-family dwellings. It deals with services such as roads, sidewalks and the maintenance of the various works. On page 16, we dealt with garbage collection; on page 17, recycling services that the town provides; on page 18, water services and fire protection.

On pages 20 and 21, we highlighted some of the issues that we feel support the desirability of having residential condominiums in terms of land use planning. There are various provincial initiatives trying to encourage municipalities such as Markham to come up with a nice mix of different types of housing. We feel that having residential condominiums is very desirable in terms of various land use issues.

A question that was of some concern to the town of Markham council was to the effect that if this bill were passed and the town were allowed to pass a different mill rate and it applied the lower mill rate to residential condominiums, what impact would that have on the owners of the single-family dwellings in terms of dollars?

In a report that the town solicitor submitted to council—and if you could turn to appendix D. Actually, there are two of them marked “Appendix D,” but it’s the report from the town’s solicitor dated April 13, 1993. On the second page of that report—I’ll just read it because it’ll just take me 30 seconds. It says:

“Also attached are calculations provided by the financial services department showing the effect that lower condominium mill rates would have on the general residential mill rate. These calculations show that the

following decrease in condominium taxes would produce a corresponding increase in the general residential taxes."

This would be if the mill rate were reduced across the town. If you look in the left column, if the condominium mill rate was reduced by 5%, that would represent in dollar terms a tax saving of \$21.84 to the average condominium owner. On the other side of the equation, the corresponding increase in taxes on the typical single-family dwelling would be a 0.41% increase in the Markham portion of their bill, and that would translate in dollar terms to \$1.81 increase. We did the numbers for a 10% decrease and then we also did them for 15%. A 15% decrease would represent a \$65.49 reduction in the tax bill to the average condominium owner but would result in a corresponding increase to a single-family owner of \$5.44.

The town council for the town of Markham looked at this. They felt that this was not a significant tax increase when you look at the, I guess, corresponding tax levels as they stand today. So, politically and on the issue of equity, they felt that those decreases and increases were quite acceptable and in fact went ahead with the bill. I guess we would submit to you that there's not a significant increase to other owners.

I've just gone through the highlights of the compendium. In summary, I would just like you to keep in mind that this would apply only to Markham's portion of the tax bill. It would allow the town to fix a different mill rate for owners of residential condominiums. We submit to you that there are inequities in the current system in terms of dollars paid for services rendered to owners of residential condominiums. Finally, any decrease in the condominium mill rate would not produce a significant increase to other owners.

The bottom line is that this is a tool that gives the town of Markham flexibility in establishing a separate mill rate, whereas in the Municipal Act right now there is no flexibility whatsoever and there is one mill rate across the board for all types of residential properties.

That concludes my remarks. I know that Mr Stanley wanted to make a couple of comments to you. Thank you.

The Chair: Thank you, Mr Robinson. I'd like to welcome Mr Stanley on behalf of the committee. Please feel free to make your remarks.

Mr Malcolm Stanley: Thank you, Madam Chair. Mr Robinson has admirably summed up the essential points of the compendium and of the town's argument for advancing this bill at this time. Perhaps I could underline a few of these important points from the point of view of what amounts at this point to double taxation for the condominium owners affected here.

1040

What we see in the development of condominiums is that the developer has to provide roads, which the town doesn't have to build, and then he passes on the cost to the purchasers of the condominiums. The condominium owners then have to maintain these roads in the property of the condominium as well as things like hydrants and street lights. Of course, this includes winter maintenance: snow removal and so on. That's an example of the kind

of thing that goes on. We could mention, as we have in the compendium, all of the other types of services which have the same effect on condominium owners: the roadways, the sidewalks, the public walkways that have to be provided in the subdivisions but not in the condominium areas, the sewer systems, the water connections to the individual buildings, the 92 houses in the sample area as opposed to the three buildings in the condominium area, the lampposts I've mentioned and so on.

Given that the town doesn't have to provide these services to us because it can't, the owners of the residential condominiums, who are already paying taxes for the same services which are delivered to the residential homes, now have to turn around and buy those services elsewhere, amounting to double taxation in effect.

That's our essential argument that we brought to the council, namely, that since the taxation system of the province of Ontario is based on the principle of equity and fairness, equitability, this is an unfair situation which ought to be addressed. We're most grateful to the town of Markham that they have agreed with us and have taken this step to present the amendment as described.

The Chair: Thank you, Mr Stanley. I do have an obligation to ask if there are any other interested parties who would wish to come forward at this time.

Interjection.

The Chair: You're going to have to come forward and have a seat, please.

Ms Tina Schickedanz: I am here representing the Tenant/Landlord Coalition for Equal Taxation.

The Chair: I assume the gentleman who just raised his hand—are you with the same group or a different organization?

Interjection: As an individual.

The Chair: All right. Ms Schickedanz, if you would like to continue, please.

Ms Schickedanz: The tenant/landlord coalition was formed in 1992 in an effort to heighten awareness of the inequitable property tax treatment suffered by tenants of multiresidential properties in Ontario. Our organization believes that tenants, taxpayers and legislators in Ontario must be made aware of the huge inequities in our property tax system, inequities that have resulted in tenants paying as much as three and four times more than their home-owning or condominium-owning neighbours.

For example, in the town of Markham multiresidential tenants this year will pay on average 125% more in property taxes than the residents of either single-family homes, co-ops or condominiums of comparable value. We believe this is simply not fair.

How did these present tax inequities come to exist? I will not give you a blow-by-blow historical account, but it suffices to say that the inequities have developed slowly over time and are due to both a lack of political will and, at least in part, well-intended but poorly-thought-out regulations and legislation such as the proposed Town of Markham Act.

The Ontario property tax system is a mess. Everyone knows it. This point was recently confirmed by the Fair

Tax Commission. Unfortunately, the legislation we are looking at here today would just add one more distortion to the property tax system that is already riddled with them. Please don't get me wrong. Condos and co-ops in Markham are probably inequitably taxed, but this legislation is not the answer.

Arbitrarily reducing a mill rate for a specific class of residential property will merely reinforce and compound the residential property tax class structure which has crept into our assessment system and which creates huge inequities. I have no idea whether in the long run condo and co-op owners would benefit or suffer from being a separate class of property, but I can say that tenants have suffered greatly from being a second class of property. The current circumstances indicate that fairness and equity in our property tax system will suffer whenever you create a different class of resident and a different class of taxpayer.

I would like to give you an example of how separate residential property classes have distorted every principle of fairness in our property tax system. In the town of Markham at 51-81 Inverlochy Boulevard, there's a town house complex. It has been a multiresidential property ever since it was built some 20 years ago. In 1992 its assessment was \$1,195,700.

That same year, 1992, the property was sold to Thornhill Green Co-op. Because of the sale it changed its class. The complex's assessment and hence its property taxes were reduced by some 25%. The same people live in the same units, they receive the same municipal services, they even pay the same rent, but they pay less property tax now because they're no longer second-class multiresidential tenants.

I could provide you with many other cases. For example, a tenant of a 1,200-square-foot apartment that pays property taxes more than the owner of a four-bedroom home on a 50-foot lot across the street, or a condo where the taxes were \$1,866.32 in 1993 and the same size rental unit next door, and I mean right on the same floor next door, paid taxes in the amount of \$4,240, more than double.

These examples illustrate clearly what happens when you create separate classes of residential property. The Town of Markham Act would reinforce and perpetuate this type of inequity and injustice, and if this committee, indeed the Legislature, is truly interested in achieving property tax fairness for the town of Markham and more generally for the province of Ontario, then the proposed Town of Markham Act is clearly a step in the wrong direction.

What would be a step in the right direction would be for this Legislature to amend the regulations behind section 58 of the Assessment Act to ensure that all residential property, regardless of the form of ownership, be included in one residential property tax class. Alternatively, section 58 should be deleted and all future reassessments be done under section 63.

A further amendment to the Assessment Act would also be necessary to require reassessments at regular intervals, say every four to six years, which would ensure that large inequities, such as those that exist in Toronto,

would not creep into the system. In the 1950s Toronto was reassessed on what was purported to be a fair and equitable basis. Four decades later, tenants pay taxes on average three and a half times more than their home-owning neighbours. If there had been regular reassessments in Toronto, there would never have been this degree of disparity in the assessment base.

Obviously the points that I make here today are part of complex political issue, one that will take a great deal of courage to take on, but it's an issue that must be tackled. Clearly the present system of property taxation in Ontario is incredibly regressive, laden with inequities.

I would urge you as legislators to follow Manitoba's courageous example. There, in 1990, the government passed a regulation phasing out the differences between single-family residences and multiresidential properties. They recognized the difficulties inherent in this action, and the process will be phased in gradually over a 10-year period.

I thank you for your time and I'll try to answer any questions you may have.

1050

The Chair: Thank you very much, Ms Schickedanz. I would ask at this point to accommodate an additional presenter. I invite Mr Johnson to come forward. Please introduce yourself for the purposes of Hansard. If you are a member of a particular group or organization, please let us know what that might be.

Mr W.G. Johnson: Thank you, Madam Chairman and MPPs, for allowing me to address you at such short notice, but I just got back in the country a few days ago.

My name is W.G. Johnson. The Christian name is Windom. That's why everybody calls me Johnny. It's easier that way. I have been working with a group in Richmond Hill. Today I do not have their consent to speak, because I came down in a hurry, so I'm speaking as an individual.

I would first of all like to say that I and many others in Richmond Hill would support this present bill. We support it on the grounds that it's some relief for condominium owners. Unfortunately, it wouldn't apply to Richmond Hill in its present form, but we support it because it's a start in the right direction.

If you'll bear with me, I'd like to give you a little background of some of the things we've been doing in Richmond Hill, because underneath this bill is a problem. The problem really is that high-rise condominiums are overtaxed, and I think we can prove that.

I live in a building just off Yonge Street on Observatory Lane. It's two and a half acres of land and it has 200 units in it. On that two and a half acres of land half a million dollars a year is collected in taxes. If you work that out per unit on two and a half acres—and you must remember, this is a condominium which is an upright community. There are virtually no roads to any great extent. Like all condominiums, it is deeply occupied by senior citizens, people like that, who have no children, so there is practically no load on the schools. We have our own recreational area: We have tennis courts, and we paid for those when we bought these condominiums. So

we don't use all these services as Malcolm Stanley has suggested.

When people move in from a single-family dwelling, they look at this and say, "Why are we taxed so high?" This is not a new problem; it's an old one. I've been a president of a condominium board and I can assure you that people all say this when they move in: "Why are our taxes so high? When I was in a single dwelling, I used to pay this and get these services and use parks and so on." It's a terrible problem.

Three and a half years ago, we approached the town on this and said: "What gives here? Is this a tax grab?" The town was very courteous and said, "You've got a point."

There is a mechanic to the way condominiums are assessed. I don't want to go into the details, but it's very peculiar. It's supposed to be a fair tax assessment, but the method can be challenged. Evidently, it arose as a result of a court action. It's a real mess.

The mayor agreed that condominiums are really overtaxed, and many of his councillors did. We said, "What are you going to do about it?" They said that what we should do is request a fair market value reassessment. It costs thousands of dollars to do one and they did one. That fair market value assessment would have lowered the taxes on every unit in our building by 12.5%, which would have given a great deal of relief. It wasn't a bad approach.

However, we have a floor here, and this young lady mentioned the requirements under the Assessment Act. The floor is that we pay all these assessors and we have all this beautiful esoteric technology to decide on a fair tax base, but when it comes to implementing, it's a political decision. The town council has to implement. In BC, market value assessment is law; there's no argument. We've gone through this real rat race of market value assessment, and you see what's happened in Toronto, as you mentioned. It's a real mess because nobody has the guts to say, "That's it."

What do you do? Well, everybody then starts hiding behind the Fair Taxation Commission: "That'll solve everything. We'll have a commission. This is the way to do it." Put it in committee, avoid the issue.

In the meantime, you've got these poor seniors in condominiums who are overpaying taxes and subsidizing all the damn businesses. Do you realize that in the town of Richmond Hill market value assessment, it was found that 60% of the residential people were overtaxed and 40% were undertaxed? The people who weren't paying their fair share were the businesses. But 60% of residential owners were overtaxed.

Politically, the town didn't like that. So we said to the town: "On the one hand you're telling us that we're overtaxed. On the other hand you're saying, 'Oh, I know, but we can't have market value assessment; it would disturb and cause another set of problems.'" True, it does cause disturbance. However, they did pass a resolution to say that in their opinion condominiums were overtaxed.

We then went the appeal route. We went to the Assessment Review Board and everybody filed appeals, which is an individual thing. It only took them about 10

months to deal with this. But guess what we got back? "Denied. However, if you care to make a further appeal to the municipal board, you can."

We looked at it and we judged what would happen. By the statements we got from the Assessment Review Board, we knew we were dead and it wasn't worth the trouble and the money, so we forgot it.

What else did we do? We went to the press, and they said: "Well, this isn't a political issue. It's not an election year." This is a municipal election year.

We then wrote to the Premier. He referred it to the Minister of Municipal Affairs, Ed Philip. We got a letter back that was a real bureaucratic nightmare. Obviously, he should have understood the situation, but by his letter—honestly, I wouldn't even show it to you; it's a disgrace. We wrote back to him and said: "The person who looked at it really didn't understand it. Did they really read it?"

We've written to the members of the opposition. We've had a reply from one but not from the other.

We now find that the assessments we filed for 1992 taxes—we renewed them for 1993, and evidently you have to renew them every year. Now they don't send out assessment notices. Nobody can remember seeing a notice in the papers about a further appeal. When we inquired and asked, "What happened to those appeals we made?" they said, "They're all on hold." We now understand they're on hold because there are some legal actions. Evidently, a condominium in Aurora took legal action, and they found out that, by a court decision, that condominium is being overassessed by 25%. If they had a 25% reduction, this would be really shaken. As a consequence, the government is now appealing that decision.

Ladies and gentlemen, all I'm trying to say to you is this: We have got a problem out there, and if it isn't solved soon, many of the people who have been overtaxed are going to be dead.

I've given you some idea of the things we've tried to do. No matter what we do, we stub our toes. I compliment the town of Markham and the association and the good works of the local government there for going as far as it has. This is why I would support this bill. But really, you've got a mess. The Fair Tax Commission—all of a sudden it was the great defence. Now it's gone flat. What are we waiting for, the next election? Who really is going to take the risk of shifting the tax base from the property tax to income tax at this point in time? It just doesn't make sense.

1100

In the meantime, as legislators you've got to remember that it's not just a matter of rules and regulations, it's a question of your representing people. Frankly, you have a situation in this province where you've got a lot of people who have been very, very unfairly treated. Furthermore, we have local town councils that are agreeing that they can't find a solution. At least the town of Markham bill is a start. I thank you for the time.

The Chair: Thank you, Mr Johnson. Mr Stanley I would ask to give us a chance to get through some of the other comments and that would allow things to move

forward. I would like to at this point turn to Mr Hayes. I know there are some ministry comments to make which are on a somewhat lengthier side.

Mr Hayes: The Ministry of Municipal Affairs would prefer to address this issue through general legislation. We have several concerns about the bill as proposed. At the same time, we're willing to work with Markham to assist the town in achieving the objectives. I have some comments to make, but I would prefer that the representative from the Ministry of Finance come forward and make a presentation and spell out some of the ministry's concerns.

Mr Ian Veitch: My name is Ian Veitch. I'd just like to read a fairly brief statement.

The Ministry of Finance has reviewed the private bill for the town of Markham and strongly opposes this bill because it will distort tax equity.

The Assessment Act requires that residential condominiums be assessed at the same level of value as single-family residences within each municipality. In addition, all residential properties are taxed at the same mill rate. This private bill, if passed, will give preferential tax treatment to residential condominiums in Markham and distort this existing equity.

The Ministry of Finance also has a number of questions and technical concerns with the proposed bill. For example:

First, although Markham seems to be proposing a reduced residential rate, it is not clear from the bill whether Markham is seeking a reduced assessment rate or a reduced tax rate. The ministry does not want to change its assessment policy with respect to condominiums.

Second, we have difficulty understanding how Markham would implement its plan. The assessment roll does not contain any information which would permit a municipal tax collector to determine which properties are condominiums for the purpose of applying the lower tax rate. It would be difficult for the tax collector to identify these units. In addition, it would be very costly for us to make special adjustments on the assessment roll for tax collectors throughout the province.

Our third concern: There are often no differences between the services received by multiresidential properties and condominiums. If the purpose of the bill is to reduce the mill rate to recognize that certain municipal services are not or cannot be provided to a residential facility, then the criteria should include all properties which do not receive the services, not just condominiums. In addition, the bill gives preferential treatment to only condominiums, which typically enjoy a lower level of assessment than multiresidential properties.

Currently, all residential condominiums are treated the same as other residential properties for taxation purposes. If Markham is permitted to tax residential condominiums differently, condominium owners across the province will also demand special tax treatment. Perhaps more significantly, other property owners such as cottagers, multiple property owners, vacant land owners and seniors will demand a tax break for local government services they do not receive.

The issue of special tax treatment for condominiums or any special group should therefore be addressed in a context of fair treatment for all ratepayers concerned with the amount of services they receive. In this regard, the Fair Tax Commission recommended that all residential properties be assessed and taxed on the same basis.

Finally, rather than special legislation for Markham alone, such tax considerations would best be accomplished through general legislation which applies across the province.

The Chair: Mr Hayes, did you have any additional comments to make on behalf of the Ministry of Municipal Affairs?

Mr Hayes: We also have a representative from the Ministry of Education and Training. If the committee feels it would like to hear from them, they're here also prepared.

Mr Mills: I'd like to hear.

The Chair: I would ask you then to introduce yourself for the purposes of Hansard.

Mr Brian Langlet: Brian Langlet, strategic funding team, Ministry of Education. In addition to the concerns expressed by the Ministry of Finance, and we would endorse those, we have a concern about the use of a principle of taxes based on services provided rather than property value. If one applied that principle to education taxes, one would be forced to address the issue of the current taxation on recreational properties, on units that do not have children. We are talking many billions of dollars in taxation. For that reason, we don't think something of this kind should be treated as a single item, but rather should be treated as a part of a major review of taxation and equity in taxation in Ontario.

The Chair: Mr Hayes, again, any additional comments from Municipal Affairs?

Mr Hayes: There are other concerns that Municipal Affairs has with respect to this bill. All the members have a copy. If you want me to read through these—

Mr Mills: No.

Mr Hayes: Are you satisfied? I think it's important, if I don't read these, that these comments should go on record in Hansard. Do I have to read them?

The Chair: You'd have to read them.

Mr Hayes: So I will read them.

The bill does not deal with the issue of the 15% differential between residential and commercial mill rates. To do this, it would have to override section 9(3) of the Ontario Unconditional Grants Act, which sets out the manner in which the tax rate is calculated and provides for the 15% differential in mill rates. The bill seeks to override section 362 of the Municipal Act, but this is not enough.

Although the intent of the bill is to set a reduced rate, there is no guarantee that the mill rate will not in fact be higher. It just gives council the discretion to set a different mill rate for condominiums. If the intent of the bill is to target a certain type of facility, it needs to be more specific.

The basis of the rate is the municipal services that the

property receives. How will this be determined? Does council plan to establish a uniform mill rate for all condominium properties? The bill does not specify whether there will be a uniform rate or differing rates or how the reduced rates will be determined.

From an administrative point of view, we have difficulty understanding how council would implement this plan. For example, the assessment roll does not contain any information which would permit a municipal tax collector to determine which properties are condominiums for the purpose of applying the lower tax rate. Perhaps representatives from Markham can explain how this would be administered from a tax collector's perspective.

If the purpose of the reduced tax rate is to account for services not provided, then other facilities, such as apartment buildings, would make the same claims. Furthermore, other ratepayers such as cottagers and seniors, who do not receive all local government services, will also want a tax break. The issue of special tax treatment for any group should therefore be addressed in the context of fair treatment for all ratepayers with similar servicing concerns.

Special legislation for Markham is not the appropriate means. Such tax considerations would be best accomplished through general legislation which applies across the whole province.

Tax liability should be clearly established in this bill. If not, the municipality might find itself with a bylaw that it could not enforce to collect taxes.

1110

The Ministry of Municipal Affairs is presently working on the Fair Tax Commission's recommendations dealing with property tax issues involving tax adjustments and tax collection matters. As part of this work, the ministry is considering general legislation that would accomplish what the town wants through a rebate program. This would be a more practical approach which would give the municipality more flexibility.

Another alternative which the current legislation allows is to area-rate those services the town provides.

As I stated at the beginning, the ministry and the minister have agreed and are willing to try to work with the town of Markham, but they are not supporting this particular bill.

The Chair: I suspect this will prompt a number of questions. I would first turn to Mr Hansen.

Mr Hansen: I know this isn't a very small issue. I think we've heard this in our offices as MPPs. I see this letter from now the Honourable Ed Philip, November 8, 1983. At that particular time, he was in opposition while Mr Cousens was in government. Sometimes letters in opposition have different wording than when you're in government.

As 11 years have passed and the Honourable Ed Philip got better educated, I imagine he wouldn't like to see this letter in front of him today, but that's how it is. Anything that's said in this committee or written in your former years comes back to haunt you at times. The letter actually has a lot of truth in it.

I think as legislators, we're taking a look at fairness.

When I take a look at land use, and we have to take a look at land use and how we're using up some of the very fertile lands we have here in Ontario, we have to take a look at other ways. Maybe we take a look at apartments in houses, we take a look at accessory apartments, as one way of taking the first step.

Mr Eddy: Give 4,000 acres back to the county of Middlesex.

Mr Mills: That's out of order. Come on now.

Mr Hansen: Where I come from in the riding of Lincoln, I own 10 acres of land and I have what I call a hobby farm. If we were going to take this sample page on page 10 about the number of units compared to the number of houses, and if we're going to be fair, my frontage on the road is around 660 feet and at present I pay the same as in the subdivision up in Fonthill. I don't have water, I don't have sewers, I don't have street lights. I've got a 400-foot driveway which I have to maintain. There are all of these things and I think sometimes it's hard to compare.

I've had people come in to say: "We had no children. What are we paying school tax for?" And somebody else says: "Why should I pay it? Our kids are grown up. We don't need playgrounds."

I've never lived in a condo. I've been in some very beautiful condos. I don't have the amenities that are in these condos in my backyard or in my basement. I think you have to take a look at the size of your condo, but then everyone's paying a little share for that tennis court, for that swimming pool, the exercise room, indoor parking and everything else. So to come to fairness is pretty hard.

As I say, it takes people like yourselves coming forward with this issue. I think we have to examine it as a government to find out where we can reach that fairness. But after saying all those things, I'm not going to support this bill today.

Mr Mills: I'd just like to say that I thought the information from the gentleman who represented the Minister of Finance was quite enlightening, and he said many things that I had planned to ask as questions, so that has wiped my slate clean.

I'd just like to say that I appreciated the comments from the person from the Ministry of Education and Training, and I think that we all are concerned about equity in taxation. I know that I am, because if we didn't have equity in taxation, I can see the nightmares in my own community vis-à-vis people saying, like my colleague said, "I haven't got any children going to school; why should I do this; why should I do that?" It would be a nightmare.

I'm quite prepared to accept the Ministry of Municipal Affairs' suggestion. They're working and dealing with property tax issues and they're considering proposing general legislation that would accomplish much of, if not all of, what the town of Markham suggests. I just suggest that they be patient, and the new mayor may be patient too.

The Chair: No comment on Mr Cousens's aspirations.

Mr Derek Fletcher (Guelph): Just to the parliamentary assistant saying that special legislation for Markham is not appropriate and that general legislation would be better: Is the ministry working on general legislation? Is there something coming down the pipe? When is this coming?

The Chair: I'd like you to introduce yourself for the purposes of Hansard and obviously for all of our information.

Ms Lynnette Coy: My name is Lynnette Coy. I'm with the Ministry of Municipal Affairs. The ministry right now is involved in, as Mr Hayes has said, looking at some of the FTC recommendations, and one of the things that we're involved in right now is how we deal with tax collection issues and tax adjustment issues.

A rebate system, we feel, would be much more flexible for Markham and for a number of other municipalities that have also requested a similar concern and have asked for similar legislation. Rather than just dealing with Markham, we are considering legislation for across the province. I can't give you a time frame as to when that's in sight. I know that's what you're asking.

Mr Fletcher: We are working on it.

Ms Coy: Yes.

Mr Mills: But not the day after tomorrow.

Mr Fletcher: No, as long as there's something being done.

Ms Coy: We just feel that this is a major tax reform issue, and it should not be dealt with in private legislation.

Mr Fletcher: I don't want these people to just get some empty words about, "Yes, we're looking at it," and nothing being done.

Ms Coy: No, but as the Minister of Municipal Affairs's letter to Markham suggested, we're willing to work with Markham, just in case the general legislation takes a long time, on a rebate system that it could introduce through private legislation once we see it.

Mr Hayes: In all fairness to the ministry staff, the schedule is up to the government. Just to let you know that.

Mr Fletcher: That's why I'm asking the parliamentary assistant. Do you have any information about when the ministry is going to come down with it? No?

Mr Hayes: We are working on it. We will go as fast as we can.

The Chair: Thank you for your edifying remarks.

Mr Eddy: There are several points I'd like to make. I do agree with Mr Hansen about the best use of land, and I think that's why condominium use and multifamily dwellings are an advantage, certainly from that respect, so I do agree with that particular point.

The Ministry of Finance statement says it strongly opposes the bill because it will distort tax equity. I don't think that's a correct statement. It will further distort tax inequity, perhaps, but I'm not convinced of that. I think the question here is, there isn't tax equity and that's why the bill is before us. It's people who see that there is no tax equity, so we need to face that, and indeed I think we

should. With the time frame, I think we have to be very careful about time frame, in view of the fact that quite often acts of the Legislature are dealt with over decades rather than years. It's a long-term situation rather than short-term that I see.

1120

The matter of education is not included here and I don't think it needs to be included in the discussion.

I'm very pleased to see the Ministry of Municipal Affairs set out in its concerns a statement that it is willing to work with Markham to assist the town in achieving its objectives.

I note that there are two possible ways out of this situation—maybe three. One is market value assessment, and that'll be the region of York. I don't know where that stands, but certainly many upper-tier municipalities in this province have faced the fact and gone to market value assessment. It has, I understand, helped the matter of fairness in many places and might here. However, that's somebody else's decision.

Another alternative is a rebate system and another alternative, I understand, is a special area rate system, and I think you mentioned that in yours. That probably is the simplest, and I can't understand why Mr Hansen's property wouldn't be affected and not included in a water area if he doesn't get municipal water or in a sewer area if he doesn't have sewers, because that is used by most municipalities in the province. Indeed, even in the tiny rural township of South Dumfries we have the foresight to use that system and it works out, and lighting as well. You can have lighting areas. Many, many.

The point of the assessment roll not containing information: Well, the assessment roll should contain the information that we want it to contain, and that can easily be done, in my opinion. It's another tick mark on a form, and I don't think we should get bogged down with problems like that. If we want it done, we'll have it done.

So we get to these other alternatives. What I would like to know—and I would say what we should do is defer a decision on this matter. I'd like a response from the town of Markham on these possible alternatives and I'd like them to have the opportunity to respond to the ministry's comments, and especially the Ministry of Municipal Affairs. Maybe they've already received this and have responded. But I'd like them to have the opportunity and to comment on these other alternatives in view of the fact that the ministry has graciously said, which I think it should have said but did say, that it's willing to work with Markham to assist the town in achieving its objectives. It might result in the bill being withdrawn from this committee and being worked through the ministry in some way. I think that's a possibility.

I think there are some alternatives, but I realize the problem. It is tax inequity. I also note the submission of the Tenant/Landlord Coalition for Equal Taxation, and the other properties, and I think the town council should have the opportunity to consider that as well in case it wanted to include more than just what's before us.

What do you see? Is that a possibility? Could we have

a response from the town?

The Chair: I have no problem, obviously, in turning the floor over, but in fact Mr Stanley, before we as members had gone into questions—and I felt some of this information should be out on the floor for everyone's understanding and comment. So since he had indicated before we did that, I'm going to turn to him, then to Mr Robinson and then to Mr Cousens, who's also indicated a desire to speak. Mr Stanley.

Mr Stanley: I think we should remind the committee that we are not talking about Toronto and we're not talking about other parts of the province; we're talking about the town of Markham. The concern of various ministries that if Markham is given permission to do this, this might lead to a flood of requests from other communities, seems to me to overlook the notion that if there is inequity in the system in other communities and if they have the degree of enlightenment of the council of Markham to want to address those inequities, then they should be entitled to do so.

When the ministry refers to upsetting the existing equity by doing what is requested here, we have to be appalled. We are addressing an existing inequity, and to say that we're asking for preferential treatment seems to me to have missed the whole argument.

When the Ministry of Finance says that this is a costly undertaking, our position is that it won't cost the province a cent. This is a town of Markham problem. We have a situation where the town is telling you people and the government that there is an inequity here. We think we have a way of correcting it. We do not want to have any more delays with regard to future changes in legislation that might possibly amend the Assessment Act, which has nothing to do with this. The town is saying, please, we can correct a situation which is unfair and we can do it now. Please do not derail this matter and get it mixed up with future possible amendments to other kinds of legislation.

I remind you that the minister has said he's in favour of this. In fact, this suggests that rather than changing his mind, as the honourable Mr Hansen has said, over the 11 years, he has perhaps gained more enlightenment and still favours the things that he espoused in those days.

So I ask you, please, to consider this a matter that can be corrected with minimal adverse effect on all other forms of residential property.

The Chair: Thank you, Mr Stanley. Mr Robinson, then, from the town.

Mr Robinson: First of all with the issue, I guess, as to whether the town has looked at the other alternatives that the honourable member Mr Eddy mentioned: We have not looked at the rebate system or—I shouldn't say 100% that we don't have special area rates for any services, but we have not tried to address the problem in that fashion. I guess if we had to, we could go back and look at that.

I understand that the rebate system is something that was put forward in the Fair Tax Commission report, and I'm not sure if we were to try to address it in that manner, whether we might be, again, sort of forging

ahead of what other municipalities may be trying to achieve. We might come up against the same road blocks of the issue whether we should be getting our own private legislation or general legislation across the board, but certainly that is something we can look at. Notwithstanding that, I guess we're before you today asking that this private bill be approved.

The Ministry of Municipal Affairs raised a number of technical issues dealing with the identification of condominium units and how, if we were given this power, it would be applied and implemented.

We feel that those are real issues and they can be addressed. If at the policy level the bill were satisfactory, we could go back and work out a number of those issues. We have all kinds of information from the regional assessment commissioner in preparation for this presentation, and it does not seem very difficult for his office to provide us the information as to who are condominium, who are co-op and how many units and how many floors. Information like that is readily available.

If you're talking about criteria that should be included in the bill, then that's something we can definitely work on in terms of a lower limit: the number of units per condominium or the services they provide; those types of criteria can be developed. But the threshold issue is really at the policy level, and if this committee and government are in support of our initiative, those technical issues can be dealt with. If not, then I don't think we even go to that next level and start dealing with some of the more technical issues.

1130

It seems everyone has made the comment that this should be done by way of general legislation. Our concern is that we would be starting the process all over again. Again, if the committee were to find favour with our proposal, there could be some type of sunset clause or understanding that once general legislation were put in effect, the Town of Markham Act would be repealed or subsumed under that general legislation, but I think pending the enactment of general legislation, our position is that we should still be given this flexibility.

I know the government has taken a major initiative in putting together the Fair Tax Commission and has volumes of recommendations. In a perfect world, it would be nice to say we have to sort out every detail, make sure everyone is being treated equitably, before we pass anything. That's the problem we're up against. I think this is a step in the right direction. It's not going to provide equity for everyone. It may not deal with Mrs Schickedanz's comments regarding landlords and tenants, but the town of Markham believes it's a step in the right direction and it will introduce more equity to the system rather than going in the wrong direction. That's my response to the various issues that were raised.

Mr Cousens: The committee has been most attentive to this issue and I want to thank all members for that attention and also the concerns expressed. I am impressed as well with the remarks made by people here this morning. When Mr Robinson suggests that there may be some ways in which we could refine some details to the bill and maybe that could lead to the establishment of a

few amendments that might satisfy the ministry, there may be then some benefit to Mr Eddy's suggestion that it be referred back for some further work between the town and the ministry, to see if we could come up with some satisfactory solution in the hope that we can at least do something to relieve the present inequity in one area.

I am sympathetic to the other inequities. One thing that I have sensed from everyone who spoke is that we have other problems we've got to deal with. If we can begin now and at least approach one, we've made one small step and then we can lead more quickly to the other steps. It might well start the ball rolling.

Markham was successful with a few of our other private members' bills. Mr Robinson and I were among the first who came in with the anti-smoking bill for the town and we were the second to bring forward a heritage buildings bill. And they have since become law. So if there's any chance we could allow the beginning of a precedent here, I would be most supportive of that kind of gesture and it would show good faith on the part of all that we're moving in that direction.

The Chair: I'd like to thank Mr Cousens for his remarks. I'd like to first turn to Mr Hayes and then I believe Mr Eddy.

Mr Hayes: Mr Cousens, are you suggesting—I don't want to put you on the spot. Maybe I should be directing this question to Mr Robinson. Would you be willing to withdraw this bill and then work with the ministry and come back to address the concerns that we have?

Mr Robinson: I'm sorry, sir, did you say would we be willing to withdraw the bill?

Mr Hayes: Yes.

Mr Robinson: I think we would much prefer to—

Mr Hayes: You have to have certain amendments to it, then, whatever.

Mr Robinson: Yes, I think we'd much prefer to refer it to whatever body or committee and talk about making revisions to it, rather than withdrawing it at this point.

Mr Hayes: I need a moment here.

The Chair: Just some technical advice from the clerk as to a possible approach. Ms Grannum.

Clerk of the Committee (Ms Tonia Grannum): They could defer discussion. I think that's what Mr Eddy was stating, deferring the bill until further negotiations and then bring it back forward again to the committee.

Mr Fletcher: Send it to another committee?

Clerk of the Committee: No, bring it back to this committee after negotiations have been done.

The Chair: Mr Hayes, any additional comments?

Mr Hayes: No.

The Chair: Mr Eddy?

Mr Eddy: I'm in favour of that, in view of the discussions we've had here and the concerns that have been expressed by others and the ministries, that it be deferred for a bit of time, and the time frame would be up to the town, to then come back with—and I hope this is possible—a replacement bill, or does it require a series of amendments to it?

The Chair: It will require a series of amendments.

Mr Eddy: The applicant could come back with a revised bill. Let's put it that way. That would be the easiest route, it would seem to me, at this time.

Mr Hansen: As to the comments I made earlier that I wouldn't support the bill, I meant the way it stood today. I didn't want to be blunt to the point that—my comments earlier stated there isn't fairness out there, but there's a lot of work to be done to wind up coming around to make it fair. I'll agree, with the rest of the committee, to have this bill deferred and brought back again.

Mr Hayes: Just one thing. We have suggested that we look at the rebate system. I don't know how much that would change the bill. It would be almost like a brand-new bill, going that route. I just want to let people know that. It may have to be readvertised or whatever; I don't know.

The Chair: At this point there seems to be some general consensus. I will ask the members to vote on this, but I think there is some general consensus, recognizing that there is a situation that needs to be addressed across the province, but that the kind of bill you're bringing forward resonates with the members and some work needs to be done. I will ask for a formal motion from Mr Eddy with regard to a deferral. We will then move on to other business.

Mr Eddy: I move that Bill Pr41, An Act respecting the Town of Markham, be deferred at this time.

The Chair: Are the members ready to vote on that motion? Agreed.

All those in favour of the motion to defer Pr41, An Act respecting the Town of Markham? Anyone opposed? The motion is carried.

Thank you, members, and I want to thank all the presenters. I realize these are very heartfelt issues, and you can see that there are concerns on our side but also willingness on the part of the ministries and the various members to work on this very important issue across the province. Thank you very much for all of your time, and for all the residents here, thank you for your commitment on an issue that I know is very heartfelt. Thank you for your time.

We're not adjourned yet. We have other business as a committee to perform. Ladies and gentlemen, I would ask you to quickly move out so that we can carry on our other business.

1140

Mr Mills: Madam Chair, I would ask unanimous consent to reopen Bill Pr86, An Act to revive Tuberate Heat Transfer Ltd, that we discussed last week.

Mr Eddy: Granted.

Mr Mills: Granted?

The Chair: Thank you, Mr Mills, and I'd like to thank Mr Eddy for his comment.

TUBERATE HEAT TRANSFER LTD. ACT, 1994

Resuming consideration of Bill Pr86, An Act to revive Tuberate Heat Transfer Ltd.

Mr Mills: The reason is that there were some inaccur-

acies in the preamble. We have a letter here from the principals of Tuberate Ltd, and perhaps I should read it into the record.

"Further to my attendance today at the standing committee on regulations and private bills with respect to Pr86, Tuberate Heat Transfer Ltd Act, 1994, and my subsequent telephone conversation with Susan Klein, legislative counsel, advising me of the error in the preamble. I confirm that the attached motion to amend the preamble will correct the error, as Mr Visser was also a director and shareholder.

"I reaffirm that the sole shareholders as of today's date are Mr VanderLinde and Mr Banovsky, as they bought out Mr Visser's interest in December 1991.

"I apologize for the oversight on my part in reviewing the preamble and on behalf of myself and the shareholders of Tuberate Ltd, I wish to thank the legislative committee and the clerk of the legislative committee for their continued cooperation."

With that, I move that the preamble of the bill be amended by striking out "all of the" in the fourth line.

Interjections: Agreed.

The Chair: We're just moving very quickly along. Now we have a small problem. We have the preamble amended, but we also have to go through the rest of the process. I will take the comments of agreement as notice that all members were prepared to vote on the bill.

Shall sections 1 through 3 carry? Carried.

Shall the preamble, as amended, carry? Carried.

Shall the title carry? Carried.

Shall the bill, as further amended, carry? Carried.

Shall I report the bill, as further amended, to the House? Agreed.

So we've taken care of Bill Pr86, to revive Tuberate Heat Transfer.

We have, I believe, one further piece of business with regard to the withdrawal of a bill. Mr Mills, did you have that motion?

CITY OF TORONTO ACT, 1993

Mr Mills: I move that Bill Pr44, An Act respecting the City of Toronto, not be reported, it having been withdrawn at the request of the applicant.

The Chair: All members having heard the motion, all those in favour? Anyone opposed? Seeing none, the motion is carried.

I have one further comment to make. We had a question put before us on April 6 relating to whether an applicant had to be present in order for the debate and voting on a private bill to proceed.

The advice on this is that while there is no procedural rule that compels the applicant to appear before the committee, since the private legislation serves the inter-

ests of the applicant, it would seem reasonable that the applicant be in attendance.

If the committee has concerns about the legislation or the legislation contains amendments, it should not be dealt with until the applicant is available to defend or explain the legislation and any proposed amendments.

It is also fair to state, then, that it would not have been prudent to proceed with the private legislation in question, which also contained proposed amendments, without the presence of the applicant to defend the legislation and have some input on the course it eventually takes.

Any comments or questions on that?

Mr Hansen: For some of the bills that come forward and have to do with reviving a corporation like a women's shelter, some of these which are straightforward, the expenses sometimes involved in an agency coming from Ottawa or Kingston or quite a ways out—I think we should take a look and if there are no problems with it and it's just to renew their corporation, we should be able to go ahead without their presence. If there is a problem, then we ask them to appear at the next committee meeting we have.

The Chair: I think you'd still have to get the agreement of the applicant, because obviously the bill is serving the applicant. We see so many of the revivals, I think we have a tendency to assume they're straightforward. I think that if it serves the purpose of the applicant, the applicant should be here.

Mr Hansen: I agree, but if it does happen that—

The Chair: If we had some communication—I mean, there would be a situation, with some of the winter weather we might have, that an applicant who was scheduled found themselves—

Mr Hansen: Stranded.

The Chair: If they got themselves to a phone and indicated their inability to be here but their full compliance with a bill as unamended, as proposed, that might give us some leeway. But generally I think the approach of saying the applicant has to be present would probably serve us well.

Mr Hansen: Okay.

Mr Eddy: Any applicant has the opportunity to appoint a representative too.

The Chair: That would be another opportunity to get something passed if the applicant couldn't make it.

The clerk informs me that an item for our agenda next week will be the report on the regulations, so I hope members will take some time to review the documents. I know I'll have to dig a bit to find them.

I adjourn our meeting for today, and we will meet in one week's time.

The committee adjourned at 1147.

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STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

- ***Chair / Président:** Haeck, Christel (St Catharines-Brock ND)
- ***Vice-Chair / Vice-Présidente:** MacKinnon, Ellen (Lambton ND)
- *Eddy, Ron (Brant-Haldimand L)
- *Fletcher, Derek (Guelph ND)
- *Hansen, Ron (Lincoln ND)
- *Hayes, Pat (Essex-Kent ND)
- Johnson, David (Don Mills PC)
- *Jordan, Leo (Lanark-Renfrew PC)
- *Mills, Gordon (Durham East/-Est ND)
- *O'Neil, Hugh P. (Quinte L)
- Perruzza, Anthony (Downsview ND)
- Ruprecht, Tony (Parkdale L)
- *In attendance / présents*

Substitutions present/ Membres remplaçants présents:

Carter, Jenny (Peterborough ND) for Mr Perruzza
Hodgson, Chris (Victoria-Haliburton PC) for Mr David Johnson

Also taking part / Autres participants et participantes:

Langlet, Brian, senior project manager, strategic funding team, Ministry of Education and Training
Ministry of Municipal Affairs:
Lynnette Coy, senior economist, municipal finance branch
Hayes, Pat, parliamentary assistant to the minister
Veitch, Ian, legislation officer, property assessment division, Ministry of Finance

Clerk / Greffière: Grannum, Tonia

Staff / Personnel: Klein, Susan A., legislative counsel



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Third Session, 35th Parliament

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**Official Report
of Debates
(Hansard)**

Wednesday 4 May 1994

**Journal
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Mercredi 4 mai 1994

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
REGULATIONS AND PRIVATE BILLS

Wednesday 4 May 1994

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS
ET DES PROJETS DE LOI PRIVÉS

Mercredi 4 mai 1994

The committee met at 1010 in committee room 2.

REVIEW OF REGULATIONS REPORTS

The Chair (Ms Christel Haeck): We have before us the reports of our legislative research staff, Avrum Fenson and Philip Kaye. There are a couple of reports that were given to you in your offices. We had started discussing these some months ago in an effort to clear up a long-standing situation where the reports needed to be made. We're going back to 1989, as you can see from your agenda.

I believe, Avrum, you were making the presentation, if my memory serves me correctly.

Mr Avrum Fenson: There are two reports in front of the committee. One is a draft report on 1989 regulations which was first given to the committee about three years ago, and another report covering 1990, 1991 and 1992 regulations. Both of these were brought again to the committee before Christmas. If the committee is interested in further comment on the reports or on specific regulations, we're prepared to make them.

The Chair: I don't see anyone jumping up with questions at this point. I'm just looking through my accumulated drafts here myself. I believe there were some discussions about some important points the last time, some highlights. I have forgotten my other copy. Mr Eddy, did you have one or two comments to make?

Mr Ron Eddy (Brant-Haldimand): It's just this point of follow-up from the 1989 report, to make sure that corrections or alterations or indeed amendments that really are required to make a regulation legal without question have been made. I know there are always some minor technical points in these things and I'm not worried about them today. It being spring, my spirits are high, so I'm not worried about the minor ones. It's to make sure that there's a legal basis for everything, because those things come back to haunt you. So I think just an overview like that to bring us up to date.

The Chair: I think it's important. We've got the guidelines on page 3, for members: "Regulations should be in strict accord with the statute conferring of power"; "Regulations should be expressed in precise and unambiguous language"; "Regulations should not have retrospective effect unless clearly authorized by statute."

Philip has raised another one which possibly he could flag for us. Can I turn it over to you, Philip?

Mr Philip Kaye: As I mentioned at the last committee meeting devoted to regs, the terms of reference of this committee are found in the Regulations Act and also in the standing orders. The standing orders list various

criteria that have to be applied to the regulations.

One of the criteria is the subject of a memo that has been distributed today. It's the sixth guideline in the standing order. This guideline says, "Regulations should not impose a fine, imprisonment or other penalty."

An issue of interpretation has arisen where the research service would like some direction from the committee in interpreting this guideline. The issue is whether or not the guideline creates an absolute or complete prohibition against imposing a penalty by regulation so that under no circumstances can you impose a penalty by regulation, or should the guideline be interpreted in a qualified sense so that if a statute says you can impose a penalty by regulation, then it's okay?

I looked at how previous regulations committees have interpreted this guideline and there isn't a lot of comment. Back in the late 1970s when the guideline was in a proposed format, the standing statutory instruments committee commented on it in a few reports and it took the absolute prohibition approach, saying that penalties for contravention of a regulation or an act had to be in the act itself and not in the regulation made under the authority of the act.

In one report, the first report of June 1978, that committee expressed complete agreement with a conclusion of the McRuer commission, that:

"Some sanctions for breach of prohibitory regulations are necessary, but in our view the penalty should be fixed or at least limited by the statute authorizing the regulations. It should not be left to the subordinate legislator to fix penalties according to his or its will."

Then I discovered about 10 years later the standing committee on regulations and private bills, in its first report of 1988, took a very different approach to this guideline. Instead of adopting the complete prohibition interpretation, it adopted the qualified approach. In that report from 1988, and I quote from it on page 3 of the memo, the committee declared:

"Unless there is statutory authority for so doing, regulations should not impose a fine, imprisonment or other penalty."

The 1988 report doesn't explain why it's taken a different approach from the report in the late 1970s.

There's a book that was recently published on regulations entitled *Delegated Legislation in Canada*, and it devotes most of one chapter to the work of this committee. The authors appear to interpret the guideline as meaning an absolute prohibition against the setting of penalties by regulation. For instance, they write that the

guideline is "aimed primarily at enabling clauses which authorize regulations to provide for penalties."

One problem raised by this complete prohibition approach is that it might be inconsistent with the mandate of this committee in the Regulations Act, because the Regulations Act says that the committee cannot look at the "merits of the policy or objectives to be effected by the regulations or enabling statutes," so that the committee cannot comment on whether or not the wording of the regulation-making powers in the statute is good or bad. If the committee adopts the complete prohibition approach, the committee would be saying: "We don't care that the statute says you can impose a penalty by regulation. If you do so, you're violating one of our guidelines."

What the research service would appreciate is some direction as to whether or not we should interpret the guideline as creating a qualified prohibition and look to see if the statute says you can impose a penalty by regulation, and if it says so, then a penalty would be in compliance with the guideline.

Mr Eddy: Has there been any challenge to a regulation through the courts of imposing a fine, imprisonment or a penalty? Has there ever been any, that you know of?

Mr Kaye: I'm not aware, unless it was a case where the statute didn't say anything about creating a penalty by regulation, in which case there might be a court challenge on the basis that the regulation is not authorized by the statutes.

Mr Eddy: Then that doesn't help us in this case, really. It's not really what we're getting at.

Mr Fenson: Yes. The issue of the meaning of this guideline wouldn't have been litigated. It simply would have been—

Mr Eddy: No.

1020

The Chair: We have a number of things then. Both Mr Kaye and Mr Fenson have flagged a number of things for us to consider. I think it probably would be appropriate to deal with this chronologically and go from what was the oldest report that needs to be dealt with first. I believe that is in your bailiwick, Mr Fenson.

Mr Fenson: Yes. This report—

The Chair: It would be the draft report on 1989 regulations.

Mr Fenson: On 1989 regulations, yes. This report notes regulations which violated the guideline on retroactivity, the guideline on statutory authority and the guideline concerning precision of language. The violations of retroactivity were basically late filings. A late filing simply means that the regulation itself took the trouble of stating in its own text when it was to come into effect, which they don't always do, and yet was filed with the registrar after that date. That usually is as a result of a long weekend or just small oversight.

We do report those because it does create basically a law which purports to come into effect before the procedure making it a law is fulfilled. Not too much administratively rests on that, but we have been in the habit of

reporting them. We did have a change of policy on another sort of retroactivity, and that was a regulation which dealt with something with reference to an earlier date. For example, a regulation made in October might say that the fees paid for court reporters as of April 1 will be such-and-such.

I must admit that the response of the ministries was querulous when we wrote to them about this, but they struck us as being violations of the retroactivity guideline. Since they were so upset by it, I checked with the Office of the Provincial Auditor to see whether the auditor regarded this kind of regulation as proper authority for the expenditure. The auditor's office opinion was that it was acceptable, so on that basis we had a change of policy in the office and we no longer reported regulations of that second sort of retroactivity.

In this report, there are two types of problems with statutory authority represented. For example, on page 6, the regulation made under the Ambulance Act was actually a case of a regulation made by the wrong authority. The statutory authority in power is the minister to make the regulation and this regulation was apparently made by cabinet. We reported it as such.

The other kind, the more common violation of the statutory authority guideline, is one in which the authority relied upon doesn't seem to authorize precisely that kind of regulation. For example, under the Child and Family Services Act, a regulation noted on page 4 provided for forms for various ministry functions under the Child and Family Services Act and the authority for different kinds of forms in that statute is very spotty. The making of some forms is specified and the making of others is not. We brought this to the ministry's attention, and to the best of my knowledge they haven't changed the legislation in the intervening years. But we've reported this sort of thing before with that ministry and that statute.

The third guideline dealt with is the guideline against imprecision of language. Sometimes this comes up when a regulation is listing a series of conditions that have to be met but it doesn't specify whether all these conditions, or some, whether it's in the alternative. That's generally just a kind of oversight in drafting and those are usually happily repaired by the ministries. They have tended to agree with us in the past and to make the corrections when they have a general housecleaning of their regulations.

The other guidelines we have considered, we have asked ministries about them. We've raised the issue of taxation, the issue of some kind of punishment or fine, but we haven't in recent years reported any as violating those guidelines, though we have been tempted to on some occasions. But usually there was some explanation which made us doubt that it would be fair to report them.

The Chair: If I can just flag something for members, on page 8 Mr Fenson was referring to "precision of language." We've been dealing with at least one piece of legislation relating to the dumping of fill. It's the last one at the bottom. This may strike a chord with folks when they read this because of the fact that obviously if it's dumped on lot 10 as opposed to 15 or vice versa, it could create some rather interesting problems.

Mr Fenson: Yes. In none of these cases did any private citizen or body bring the ministry to court over this, so no harm was done in the real world. But the ministries did agree that the changes be made to this. Sometimes, of course, the passage of time made these problems moot. Sometimes it involved a licence or authority which expired not long after it was made.

The Chair: Are there any questions to Mr Fenson?

Mr Gordon Mills (Durham East): Isn't there some recommendation forthcoming? Is that here or not?

The Chair: Our task is basically to review these, obviously to ask questions as members see fit, and in the end to approve them and therefore to make a report to the House. As you can see, this is a task that has been sitting before us for some time as a committee.

Seeing no questions, I would ask finally if there are any other points that Mr Fenson would like to flag for us before I would put a motion before the committee to approve this particular report.

Mr Fenson: No, there are no other points. I covered all the categories of problems dealt with.

Mr Ron Hansen (Lincoln): Maybe Mr Perruzza's got a question here.

Mr Anthony Perruzza (Downsview): Now that you mention it, I did have several, but looking at the clock and seeing as how we want to get back into the debate in the House because there are several very, very important motions that are being discussed there this morning—one has to do with guns, and since I represent a good chunk of the Jane-Finch community, that's an issue that interests me considerably. I can't believe that a Conservative member who was elected only a couple of weeks ago would negotiate time from his leader to introduce a bill that would allow people access to more guns.

The Chair: Thank you, Mr Perruzza.

Mr Perruzza: It's absolutely unconscionable, and I want to get in there and make those kinds of points.

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The Chair: We want to thank Mr Hansen for the opportunity for raising this also.

The recommendation before us is in fact to approve the draft report on—

Interjection.

The Chair: I'm sorry; I do stand corrected by the clerk. The actual report that we will be voting on is the standing committee on regulations and private bills' first report, 1991.

Mr Fenson: That's sort of been superseded. It's probably more accurately described as the draft report on the 1989 regulations. It might be, say, First Report 1994, because it would be named by the year in which it's—

The Chair: —actually approved, rather than the regulations to which it—

Interjections.

The Chair: For all, there is a consultation now between the clerk and the researcher.

Just to flag for members, while most of the regulations contained herein relate to 1989 and the report that we

have been working with as a working title has the date 1991, the reality is that it will be printed up as first report for 1994 because this is the year in which we are in fact approving it. Since you're all stunned into silence, I will put the motion forward.

Mr Hansen: Madam Chair, may I ask a question? Why has there been a delay since 1989 to look at these regulations? Five years? What is the length of time of the review? Maybe I missed that out.

Mr Fenson: I first gave this report to the predecessor of this committee on June 24, 1991.

Mr Hansen: I was the Chair at that time. Since I stepped out of the chair, have things been dragging?

Mr Fenson: It was well on its way.

The Chair: It now takes another Niagara member to finish the job. Under those circumstances, before we get into a real flurry of activity, I would ask if members are prepared to vote on the recommendation that this report be approved and then reported to the House.

Mr Perruzza: So moved.

Mr Hansen: Agreed.

The Chair: Any in opposition? Seeing none, the motion is carried.

I'm informed by the clerk that we will need approval for printing of the final report.

Mr Perruzza: So moved.

Mrs Ellen MacKinnon (Lambton): Does that require a motion?

The Chair: It does, and Mr Perruzza moved ahead with that. All those in favour of a motion to appropriately print the final report? Agreed? No opposition. Seeing none, the motion is carried.

Do I take it then, Mr Kaye, you will move on with the next report?

Mr Kaye: Yes.

The Chair: Do you want to read out the report title?

Mr Tony Ruprecht (Parkdale): We're still stunned into silence.

Mr Kaye: The next report is entitled First Report 1993: 1990-1992 Regulations. This report was drafted by Jacinth Herbert, who briefed the committee on it in December. She has since left the research service to go into private practice, so I will be briefly reviewing the regulations that are cited in it.

There are three regulations: one under the Environmental Assessment Act, one under the Pension Benefits Act and one under the Game and Fish Act.

On page 4, there is a brief discussion of the regulation under the Environmental Assessment Act, specifically O Reg 549/91. This regulation provides for an exemption of an undertaking for the expansion or upgrading of existing sewage or water systems of a particular type. There are various terms and conditions—

The Chair: Can I just interrupt you, Mr Kaye? In the copy of this report, it looks to me as if it copied every other page. It's the good librarian in me. Up until at least page 7, it left out the even-numbered pages. It only covered the odd ones to that point. We'll stand this one

down for the moment until the clerk is able to copy the missing pages.

Mr Eddy: We're all right once we get to page 7.

The Chair: Right. So what we could possibly do then is, either one of the presenters could deal with some of the other items before us and just shift gears slightly.

Mr Kaye: There is another memorandum which members should have which I prepared on December 6. In part it was a follow-up to some questions that were raised at the previous week's committee meeting. The memo is entitled Review of Regulation-Making System, and attached to it are various documents which were requested at the previous week's committee meeting.

The first three documents attached are first of all a list of recommendations from the committee's report in 1988 on the regulation-making system. The second document is the government response to this committee's report, which consisted of a letter from Ian Scott, the then Attorney General, to Allan Furlong, who was Chair of the committee. Thirdly, there is a letter from Russell Yurkow, who was then the registrar of regulations, which looks at the issue of releasing draft regulations prior to the passage of the bill.

I also have attached a fourth item to the memo, and that is a letter from David Fleet, who was Chair of the regulations committee when it looked at the regulation-making process in 1988. This letter was written to Allan Furlong, who at that time was Chair of the committee, and in the letter Mr Fleet comments on the government response of Mr Scott to the committee's report.

I've highlighted these documents, starting on page 2 of the memo, briefly to give an overview of the committee's 1988 report on the regulation-making system. This report differed from the reports you're considering today, which look at specific regulations which are published in the Ontario Gazette. In the 1988 report, the committee stated that three principles should underlie reform of the regulation-making process. The three principles were fairness, accessibility and accountability.

There were several recommendations included in the report. Just to review the recommendations on four of the topics, one of the topics was entitled "Notice and Comment." That phrase refers to procedures for giving the public notice of and the opportunity to comment on proposed regulations.

The committee recommended that the Regulations Act should be amended to provide for notice and comment procedures that would apply to all proposed regulations, subject to certain exceptions. Thus, the committee wanted publication of a notice which would give a plain-language summary of the proposed regulation, give the reasons for the regulation and cite the relevant statutory authority. The committee felt as well that in general there should be a minimum period of 30 days within which the public could comment on the proposed regulation.

The Chair: Can I just ask you, do members mind if I raise a question at this point?

Mr Mills: Not at all.

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The Chair: I make the assumption that the regulation

would then be published in its entirety in the Ontario Gazette. But are there any other publications where one might find a printed record of that proposed regulation? Most people are not subscribers to the Ontario Gazette, so they wouldn't necessarily decide to go there. It would more than likely be lawyers or obviously some stakeholders who might be interested. The Ontario Gazette is, then, the only location where it's published?

Mr Fenson: Unless there is a procedure specified in the legislation which says that the draft should be advertised in some other way, but that's very exceptional.

Mr Kaye: Although I should add that what the committee proposed was that this notice should be published in the Ontario Gazette, the Ontario Reports and "any other source that the ministry or agency considers necessary for reaching affected persons." The notice wouldn't be the actual proposed regulation; it would be a plain-language summary of the regulation. But the committee recommended that the actual text of the regulation should also be published, if considered appropriate by the ministry or agency, and that if the text of the proposed regulation was not published, the public should be informed as to where copies might be obtained.

A second issue that was dealt with in the 1988 report was the power of disallowance. This power denotes the power of legislators to vote the repeal of regulations. The committee recommended that the Regulations Act should be amended to give members this kind of power, and under the proposed amendment the committee would be empowered to make a report to the House containing a resolution that a particular regulation or part of the regulation be disallowed.

Once this report had been tabled in the House, a vote would have to be held within the next 20 sitting days. If there wasn't a vote, the report would be deemed to have been adopted. The thinking behind this recommendation was that the House simply could not ignore the report of the committee. If it didn't act, then the report would be deemed to have been adopted, and the Regulations Act would explicitly state that the adoption or deemed adoption of the report had the same effect as the repeal of the regulation. In essence, it would allow this committee to start the ball rolling in terms of getting a regulation repealed.

If, for instance, the committee felt that a regulation had been issued and there wasn't statutory authority for the regulation, under the current situation if the committee tables the report, there's no requirement that the House act on that report, although the committee has the option, under the standing orders, of requesting a comprehensive response to the report.

But in terms of ensuring that the regulation was amended so that it was authorized by the statute or that the statute was amended so that it authorized the regulation, there is no power that way to actually guarantee some kind of action, whereas under the power of disallowance, if in this situation the committee felt a regulation was not authorized by a statute and submitted a report with a resolution to the effect that the regulation be disallowed, the House would have to act. If it did not act on the report or it voted to accept the report, by

simply voting to accept the report of this committee, the Regulations Act, under this recommendation, would say, "The regulation is repealed."

This is a power which exists in Ottawa, and when the committee held hearings in 1988 it was a fairly new power there. It's my understanding that it has been used four times in Ottawa and three times successfully. Although the wording of the power in Ottawa is somewhat different from the recommendation here, there are similarities.

A third issue that the regulations committee dealt with in 1988 was the mandate of the committee, which as I mentioned is found in the standing orders and in the Regulations Act. One of the proposed changes was that the committee's mandate should go beyond the review of regulations to the enabling clauses, to the regulation-making powers in statutes.

Under the recommendation, the committee would advise the standing committee considering a bill whether or not the enabling clauses contained overly broad or vague enabling powers. The standing committee to which the bill was referred would still have final say over the wording, but the enabling clauses would be referred to this committee for review in order to provide advice to that standing committee.

A fourth issue discussed in the report was sunset clauses. The committee recommended that the standing orders be amended to require standing committees to evaluate the effectiveness of regulations on a rotating basis. The objective was the systematic review of all regulations over a seven- to 10-year period. As well, the committee felt that before making or recommending a regulation, ministries and agencies should consider whether or not a sunset provision would be appropriate.

The Chair: I understand that in the US, sunset clauses are something that is fairly much in evidence. I'm not aware to the same degree what we have here in Ontario or even federally. Could you comment on that?

Mr Kaye: I'm not really familiar with what ministries are doing today in terms of the addition of sunset clauses.

The Chair: I know it's something that other jurisdictions make better. I say better because it's my feeling there should be a more regular review if things are still timely and appropriate. I don't think currently we're making use of some of those powers in a way that we should.

Mr Kaye: As I mentioned, the government responded to the committee's report in the form of a letter from the Attorney General in February 1989. In the response the government classified the committee's 44 recommendations into three categories: One category was recommendations that the government was inclined to accept—six recommendations were in this category; 26 recommendations fell in the category of recommendations that required further consideration, and 12 recommendations were in the category of recommendations that were not considered implementable at the time.

The government response indicated that there was particular interest in considering further the recommendations with respect to notice and comment and

disallowance. On page 4 of the memo, I've highlighted some of the government's comments on notice and comment, disallowance, the mandate of the committee and sunset clauses.

Just briefly on notice and comment, a concern of the government was that the committee's recommended procedures were too rigid and that the cost had to be considered in light of the benefits likely to be obtained in any individual case.

On the disallowance recommendation, the principal concern was that the process whereby the regulations would be automatically repealed if a vote was not conducted within 20 sitting days was of special concern. Accordingly, the government recommended that the issue be given further consideration.

On the issue of the mandate of the committee, and in particular the question of enabling clauses, the government felt this recommendation would result in a duplication of effort and cause a delay in the legislative process.

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On the question of sunset clauses, the government was inclined to accept the recommendation that ministries consider the appropriateness of a sunset provision when making regulations. However, the government felt that the proposal for a systematic review by committees of all regulations required further study.

Next, the memo discusses the assessment of the government response by the Chair of the regulations committee when it conducted its hearings on the regulation-making process. Mr Fleet wished the committee to build on what he termed the "positive" response of the government. However, he urged the committee to ensure that reform was "assiduously pursued" in the areas of notice and comment, disallowance, the definition of a regulation, sunset review and a citizen's code of regulatory fairness.

The final issue discussed in the memo has to do with releasing draft regulations before a bill has been passed. A few years ago, I asked the registrar the following questions:

"A government bill containing regulation-making powers is introduced in the House. Why are draft regulations not released before the passage of the bill? Why, for instance, do members not have access to draft regulations when the bill is in committee?"

The registrar agreed that "over the years, it has not been normal practice to prepare draft regulations before the bill has been passed by the Legislature." He wrote that the main reason for this practice was the "sequence of logical development" whereby the creation of a statute and a regulation were usually regarded as two separate processes which operated in series rather than in "parallel." One of his concerns was that speculative drafting would result and that until the bill was settled it would be impossible to settle the regulations.

The registrar of regulations, in his response, concluded by highlighting the advantages and disadvantages of changing to parallel processes. One advantage would be the opportunity for members to comment on draft regulations during the statute creation process. On the other

hand, he believed that one of the disadvantages would be the extra time it would take to pass a bill.

Mr Mills: Right on. Are you listening, Ron?

Mr Eddy: Yes, I am certainly listening and I'm trying to think how I'd respond. I think it depends a bit on the bill and the wording. Some bills, as you would know, are more contentious than others. It just seems that since such a major part of the law is going to be in the regulations, it really is affecting the way you vote on a bill, maybe, depending on what you think might be in those regulations. In a lot of cases, I don't think it really is important to have them, I agree with you completely, but there are some contentious ones when the regulation could go this way or that way, and that's where the problem arises. I don't know. I guess the intent of a regulation would help considerably in a case like that.

Mr Mills: Being on the committee with Bill 120, I know that this came up time and time again. "Give us the regulations so we can really understand this." I appreciate that. I always thought that if we did that, we'd be there for evermore and that's one of the—

Mr Eddy: But with some bills I don't think it matters; it's not a contentious matter.

Mr Derek Fletcher (Guelph): But what would you do when you were looking at the regulations? What would be the purpose of looking at the regulations of certain bills in this committee?

Mr Eddy: I'm not so keen about really the actual regulations as the intent of the regulations, where they could go in diverse ways. I don't know whether there could be an intent of what the regulation would say. I realize you go ahead and do all these regulations and then the bill happens to be amended, and then those regulations all have to—but surely in most cases they would just need to be amended somewhat. I know this point that comes up. We holler and holler and say, "We want to see the regulations," because they're so important and a major part of the bill.

Mr Mills: It's got its pros and cons, as we can see; that's for sure.

The Chair: Mr Kaye's final remarks were on page 5, and then there is a series of appendices which were flagged on the cover sheet for this particular review. I'm not sure we really have to go through the appendices. I think that's something members can do for themselves, which then will possibly expand on specific concerns, unless there's something Mr Kaye wants to flag that would be important in one of the appendices. I think it's more explanatory than necessarily a highlight that we would have to pursue.

Are there any questions with regard to this report on the regulation-making system and the recommendations that came out of the second report for 1989?

I would ask Mr Kaye then, as far as this particular document is concerned, is this basically for letting members know some of the issues that have been before the committee? I don't believe there is a particular action necessary at this time.

Mr Kaye: Correct.

The Chair: Correct; okay. So the review of the

regulation-making system was there for the edification of members and the report that we will now turn to is the one that had the missing pages. It is now titled the Second Report 1994 and relates to the 1990-92 regulations. Again, I will turn to Mr Kaye.

Mr Kaye: As I mentioned, there are three regulations discussed in this report, the first one being under the Environmental Assessment Act, O Reg 549/91. It provides for an exemption of an undertaking for the expansion or upgrading of existing sewage or water systems of a particular type. There are various terms and conditions included in the regulation. One of the conditions permits the minister to change the expiration date of the exemption by publishing a notice in the Ontario Gazette. So in effect the regulation can be amended, not by another regulation but by a notice. The draft report says, "We believe that the Environmental Assessment Act does not confer this form of power upon the minister."

There have been two responses from the ministry to this perceived problem. The first response is dated July of last year, and a second response is dated from December. This second response was received after the committee briefly discussed this part of the draft report and the ministry was asked to comment.

All together, there are maybe four arguments by the ministry as to why this regulation should not be included in the report. One argument is that the condition whereby the minister can change the expiration date of the exemption is an administrative matter and that the policy in the committee's guideline on statutory authority applies to legislative matters only.

A second argument of the ministry is that the Environmental Assessment Act provides for the imposition of terms and conditions in exemption orders with the approval of the Lieutenant Governor in Council and that the fifth condition in the regulation is simply one of those terms and conditions. In other words, by approving the exemption order, the Lieutenant Governor in Council approved the minister publishing a notice in accordance with condition 5. In fact, according to the ministry, the exemption order could just state that a particular undertaking is exempted from the act, subject to such conditions as the minister may impose.

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A third argument of the ministry is that the exemption order is functionally equivalent to the Lieutenant Governor in Council approving the issuance of two exemption orders by the minister, one order to expire in March 1994, and the other to be issued later, with a later expiry date, which according to the ministry is authorized by the Environmental Assessment Act.

The fourth argument, and this was highlighted in the ministry response after this committee first looked at the draft report, is that with the passage of the Capital Investment Plan Act, the activities of the government which were formerly carried out pursuant to the exemption order are now carried out by the Ontario Clean Water Agency. Therefore, even if the committee feels that the minister should not have been given the authority to change the expiry date, "the question is now moot, as the minister will not need to exercise that authority."

The question is, do the members now wish to have this regulation deleted from the draft report in light of the further response from the Ministry of Environment and Energy?

Mr Eddy: I would agree.

The Chair: That it should be deleted?

Mr Eddy: Yes.

The Chair: Any other comment?

Mr Eddy: Is the Chair happy?

The Chair: I think the Chair's happy with that comment by Mr Kaye and, obviously, the acquiescence of Mr Eddy.

Interjection: Is there agreement, then?

The Chair: Yes. Could you make a formal motion, Mr Eddy, so that we actually get it on the record, all facetiousness aside?

Mr Fletcher: Let me hear what that motion was.

Mr Eddy: To approve the recommendation of Mr Kaye.

The Chair: The motion is that on page 4, under "Statutory Authority" relating to Ontario regulation 549/91 under the Environmental Assessment Act, that be deleted from the report.

Are you in favour of the deletion? All those in favour? Any dissenters? No.

Mr Fletcher: Yes, one.

The Chair: One.

Mr Hansen: No, there's none.

The Chair: It is carried, whatever the case.

Mr Kaye: The second regulation mentioned in the report was made under the Pension Benefits Act. It deals with the criteria which must be met before the Pension Commission of Ontario can consent to the payment out of surplus moneys to an employer. Under the regulation, all beneficiaries and plan members must consent to the payment terms.

What the draft report says near the bottom of page 5, the second-last paragraph, is, "It appears to the committee as if the individuals referred to in subsections 10(2) and (3) are carrying out the regulation-making function, rather than the Lieutenant Governor in Council, which would be in contravention of guideline (ii)."

The ministry response to the perceived problem with the regulation says that subsections 10(2) and (3) are preconditions to the pension commission granting its consent to the payment of surplus to an employer, but that there are other preconditions as well. In other words, member consent in and of itself does not permit payment of surplus funds to an employer. Thus the members would not be carrying out the regulation-making function.

The ministry response goes on that perhaps for clarity, the words "written agreement" should've been used in these subsections instead of "consent."

The Chair: Any comments on the part of the members? I put forward that you have to do more than nod your heads. In this case, you're going to have to agree that "written agreement" should be there rather than "consent" or in fact agree with the ministry.

Mr Mills: Agreed. Is that what you want?

The Chair: That would be good. That would be moving in the right direction.

Mr Kaye: But members would also be asked to agree with the statement that it appears as if the beneficiaries and pension plan members rather than the Lieutenant Governor in Council are carrying out the regulation-making function. Do members want to agree to that as well?

Mr Mills: Yes, I do.

Interjections.

The Chair: I believe we have achieved a consensus.

Mr Kaye: The final regulation mentioned in the report is just a technical matter. It's a regulation under the Game and Fish Act. There was an inconsistency between the French and English versions of subsection 15(4) of regulation 740/92.

The legal services branch of the Ministry of Natural Resources acknowledged that there was a problem with the French version and that an amendment would be prepared. Since Jacinth Herbert drafted this report, the amendment has been published in the Ontario Gazette so the problem has been corrected by the ministry.

Do members wish me to add that to the description of the regulation or do they wish the regulation completely deleted from the report now that the correction has been made?

Mr Mills: It's difficult for me to sort of note a French error.

The Chair: If the ministry has complied, do you feel it should be in here or just a note to say that the ministry has complied?

Mr Mills: I think just a note.

Mr Ruprecht: Why not just delete it? That would take care of the whole problem. Why do you want to go through another step?

The Chair: We have one deletion and one for a note. Any other comments at this point?

Mr Kaye: I should mention that normally when the research service discovers an apparent violation of a guideline and the ministry acknowledges that there is a problem and the ministry has undertaken to address the problem and change the regulation, we do put that in the report.

The reason I asked if it should be included is that at the top of page 4 there's a reference to the fact that a number of regulations which would've been the subject of this report were corrected within the three-year period, so just for the purposes of this particular report. In some other cases, when regulations were corrected, they haven't been included in the report. In this case, because the regulation was inserted in the draft report and brought before the committee in December, does the committee in these circumstances feel it should still be in there with an acknowledgment that the ministry has corrected it?

Mr Mills: I still say there should be a note. I can think of back the other week; there was some nuclear problem in a plant in Detroit, and though nothing happened, the public down there said, "Well, we should've

known that nothing happened." I'll use that. People like to know that it's been corrected, I think.

Mr Fletcher: I agree.

Mr Eddy: Agreed.

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The Chair: The recommendation is that there will be a note appended to the bottom of page 6 to indicate that the ministry has complied by making the appropriate change. There seems to be a consensus on that point.

Mr Mills: And that's probably good for democracy.

The Chair: We have come to the point where we are into the appendices, which means the bulk of the report has been dealt with, so I would entertain a motion from one of the members that the report is approved and then report it to the House. Agreed? Agreed.

I would entertain the additional motion of allowing for the printing of this report, entitled the Second Report 1994. Agreed? No opposition, so it's carried.

Mr Kaye: Just to get back to an issue which I mentioned earlier on, the guideline on penalties: Would the committee be able to give the research service some direction as to whether we should interpret the guideline in terms of an absolute prohibition against the setting of penalties by regulation, or a qualified prohibition so that if the act says a regulation can impose a penalty, it's okay?

The Chair: Would anyone like to speak to that?

Mr Ruprecht: We are discussing right now, and we can't come to a solution.

The Chair: I have a feeling that's actually on another topic entirely, but we won't put you to the test. Mr Eddy?

Mr Eddy: Sorry, I was involved in reading this item they were—would the Chair mind repeating?

The Chair: Mr Kaye has put forward this request for clarification: "Committee's Guideline on Penalties: Absolute or Qualified Prohibition?" He's given us a three-page document as well as giving us some comments previously to highlight the concerns his office is having to deal with. He is asking, are we going to give direction to his office that there should be a complete prohibition on any penalties being assigned from the regulations, or should it be as on page 3 of his report, qualified prohibition?

Mr Fletcher: Qualified.

Mr Mills: I tend to agree with that. To me, that makes abundantly good common sense, not to take up on the new phrase that is criss-crossing the province.

Mr Eddy: I prefer to see the absolute, but realizing that the rules could be changed by the government of the day to go the other route anyway, and realizing that if the bill has that in it, it can be debated in the House, I would agree to go with the qualified.

The Chair: Any further discussion? Seeing none, I would say that the consensus reached by this committee is that the qualified prohibition, as outlined in your report, is the direction we would like to see you take. Are there any other issues you'd like to bring before us at this time?

Mr Kaye: That covers the issues I wished to raise.

Mr Fenson: Like all bodies in the public service, the legislative library, particularly legislative research service, are feeling the result of budget cuts and, frankly, we are short of printed legal resources. I raised with the clerk and welcome this opportunity to raise with the committee the question of whether the committee would consider providing legislative research service, for the use of whichever lawyer is dealing with regulations, a set of the revised statutes 1990 and the revised regulations 1990.

We have asked for it within the library, and they can't give it to us. We have one set, but it's in very heavy use in our office. There are five lawyers doing different things and six or seven other research officers using it. If the committee could find it in its budget and its heart to provide us with a set, it would very much help.

The Chair: Mr Mills, you were fast on the mark there.

Mr Mills: Before committing myself to such a move, are we talking about one volume of books and the cost of those?

Mr Fenson: It's one set. The revised statutes are, I think, \$595 and the revised regulations are \$495.

Mr Mills: So we're looking at \$1,000.

Mr Fenson: About \$1,100 or \$1,200, I would say.

Mr Fletcher: You can't get this now because of cuts that have already been made to your department, so you're asking us to circumvent the Finance minister.

Mr Fenson: Well, we're asking you to consider whether your budget allows you to provide us with this tool for the work we do for you. At one time, the committee hired outside counsel and paid for it.

The Chair: I think there is a consensus among the members that this is something we should—

Mr Fletcher: We don't have a consensus.

The Chair: Okay, but I would like to turn at this point to the clerk to give the members an idea of what is in our budget, if Ms Grannum could give us that detail.

Clerk of the Committee (Ms Tonia Grannum): I can't be specific because I can't remember the figures exactly, but we do have a line item for purchase of books and texts, so it would be able to be covered under there, if they'd like.

Mr Fletcher: I'd like to see a copy of our budget before we make a decision on something like this.

The Chair: That's why I thought it was appropriate that we had at least a report on the situation.

Mr Mills: Not wishing to carry on at length, I would think the onus on the committee and on the committee members is to have the resources available to help in the decision-making process. Realizing that these books are key, and realizing that you haven't, as in the old days, resources for outside legal opinions, if our budget would so allow, without crippling anybody, I think it makes absolute common sense. You can't continue to ask for advice if the people haven't got the tools to give that advice properly. That's my own personal opinion. The Treasurer might tread on my chest—or the Finance minister, we call him now—but he's not here and I am.

The Chair: The clerk has offered to get a copy of the budget as it stands, as we speak. Are members basically in concurrence with that? The members are, so she's undertaking to do that.

Mr Eddy: My question is simply, is there enough in that allocation to do that? I'm certainly in favour of it. I can see it being a much more efficient use of time. The set you have must be a little battle-worn.

Mr Fenson: The bindings are shaken, as they say in the used-book trade, very heavily used.

Mr Eddy: Seeing that Mr Mills has joined the Common Sense Revolution, I'll certainly support him.

Mr Mills: I've read the document; I'm not joining that revolution.

The Chair: We could have a real political discussion on that.

Actually, as a committee, we have been very careful in our expenditures. Our budget rarely gets used entirely in any given year.

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Mr Fletcher: It doesn't mean we have to use it.

The Chair: No. We definitely give money back.

Mr Mills: It's a question of prudent use, commonsense use in spending the budget. This isn't just spending the budget; it's needed.

Mr Fletcher: I'm going back to my old trustee days. Perhaps with some jiggling around in your department, you could find the extra money to do it.

Mr Mills: They have looked.

Mr Fletcher: How do you know? That's what we used to do when I was a trustee. We'd look around at the different departments and how they operate, and perhaps they could find the money before we had to go back to the well. That's my only concern. If there's another way of doing it, I'd much rather see an innovative way of doing things.

Mr Mills: I see this request as the last resort.

The Chair: Let me turn it over to the clerk. She has more explanations to give.

Clerk of the Committee: We do have a new budgetary process, and now the committees are going through a global budget. The budget we had last fiscal year had separate line items, but I've just checked, and we don't have it in our budget.

Mr Fletcher: So that would be something we would have to make a motion about, to spend the money on the set of books. Could we do that as a committee?

Clerk of the Committee: I've been told we don't have it in our budget, that we wouldn't be able to receive the approval. Because it's now drawing from a global budget, I'd have to go through Debbie Deller.

Mr Fletcher: As a committee we cannot say, "I recommend that we spend x amount of money."

Mr Mills: Notwithstanding the fact that you've told us there's no line in the budget, is there some process whereby we could carry this forward to some other means by which this could be considered? In my opinion, the effectiveness of this committee is being somewhat

limited through this. That's my concern, that we are not able to get the service we need because of the lack of \$1,000. To me, considering all the stuff that comes through this committee, it's really rather bizarre that we can't do that.

The Chair: I would put forward this thought, and obviously others can agree or disagree. We could make a motion to the effect that the committee understands the concern of the researchers and would like to explore ways in which this could be resolved. That does leave it somewhat open. We might then ask, within the confines of this building, how we could find those moneys to buy this particular, in library reference terms, tool, so we could see them get their work done. Is that something with which the members could concur?

Mr Mills: That's the sort of motion I'd like to make.

Mr Fletcher: I want to hear the motion.

The Chair: The motion was that we understand the concern of the researchers and that we would like to explore ways in which we could resolve that particular issue, ie, the purchase of those volumes.

Mr Fletcher: Who made that motion?

Mr Mills: I'm going to.

Mr Fletcher: I want an explanation of that motion.

Mr Mills: There's an old English adage which I think will cover the thing very succinctly, that you can be penny wise and pound foolish.

Mr Fletcher: I want to know what "explore" means. I don't want some English saying. I want to know what it means.

Mr Mills: Okay, you don't want an English saying.

Mr Fletcher: What does "explore" mean?

Mr Mills: Well, to see if we can achieve this somehow. Maybe there's some recommendation that can go to some other body. I find it absolutely nuts that we sit here, that we have a committee—

Mr Fletcher: So we're sending a motion somewhere and we don't know where.

Mr Mills: No, the clerk is going to address this to the proper avenue. It seems to me barmy that here we have legislative research people who do the bulk of the work for this committee telling us they can't really operate at peak efficiency without the use of these books, and if we sit here in our wisdom and say, "Well, that's tough; these are recessionary times," I don't think that's very progressive. You've got to say, "Let's see what we can do about this." Then when we see and when the clerk has seen what we can do about it, and if nothing can be done, at least we have tried. I think we should try.

Mr Fletcher: I'm not debating that they need what they need. My point is where the money is coming from.

Mr Mills: Tonia is going to find that out and come back to us and say, "We've made some inquiries and some people feel"—

Mr Fletcher: When I say "explore," does that include how they function within their department, whether there could be cost-cutting? That's what "explore" means. Are you going to explore that?

Mr Mills: In all due respect, when Mr Kaye and Mr Fenson have appeared before this committee and asked us as a committee to look at this, I would presume they've explored it and explored it to the end of time, and have said, "We can't do it unless this committee helps in some way." I would presume they wouldn't come here to make this request if they hadn't gone the extra mile in their own budget to get this.

Mr Fletcher: Well, I don't presume anything.

Mr Fenson: The way we dealt with this problem while we were still using the revised statutes and revised regulations 1980, with supplements, was that as the committee took on the task of doing regulations in the late 1980s, since that was towards the end of the decade, there were more copies which offices were giving away, and we managed to collect a set, as sort of garbage from legislative counsel. It's too early in the decade for any free sets to be floating around now. We've tried. We've asked the library informally if they could act as a clearinghouse for members or offices who might be willing to give one. They've tried, but nothing's come up.

As far as the budget goes, they've been adamant, and of course I'm not in control of that.

Mr Fletcher: Could I ask Tonia, how far are you going to explore? That's all I want to know.

Clerk of the Committee: My only parameters would be to find out if there's a possible way through our global budget to deal with the request from the committee. That's all I can do.

Mr Fletcher: And you'll bring that back to us.

Clerk of the Committee: Yes.

The Chair: The other option would be to appeal through one of the offices whether there's a set that's not being used very much.

Mr Mills: I've got books on all the walls and I don't know where they come from, nor do I open them.

Mr Fletcher: Maybe he has a set.

Mr Eddy: For the statutes, but the regulations are much harder to get hold of, and you need the regs.

The Chair: There's no problem in trying to be somewhat creative about this. It doesn't have to be one particular way. It doesn't necessarily even require spending money, other than maybe sending notices around to offices: "If you're not using your statutes overly much, would you consider giving them to a

worthy cause?" These are things that have been known to happen in the past.

Mr Eddy: You might get two or three sets.

The Chair: You never know. We may not even have to spend \$1,000. It may not even mean an expenditure.

Interjections.

Mr Fletcher: Here's a suggestion, and Hansard has said that's a good idea too, that we look at other ways. If we cut out the coffee in here and the juices and things, perhaps we could save enough money to buy some books. What are we, a coffee shop around here?

Mr Mills: Well, it's nice.

Mr Fletcher: Oh, it's nice.

Mr Eddy: I don't think we even pay for it; it doesn't come out of our budget.

The Chair: It does. I think members should note that we really are not one of the high-spending committees of the Legislature. If anything, we're probably the lowest-spending of all of them. This year our budget will be somewhat higher because of the publication of the reports, but that's accounted for; it's been in the budget. Where we normally have had about \$20,000 set aside, this year we'll be spending somewhere in the neighbourhood of \$13,000. Since it's handled globally, we're not going to have that \$7,000 to play with. Some other committee, if it travels, will probably use those moneys.

Mr Fletcher: It all comes out of the cost of running the government.

Mr Ruprecht: You're saying we can only travel to Niagara Falls?

The Chair: We could go to your riding; I don't care. If you're treating us to lunch, I've got no problem.

Mr Mills: Madam Chair, we're the direct descendants of Scrooge: the cheapest committee in town.

The Chair: That's right, and we like to at least make sure we keep our financial record in such matters, so we'll be creative about trying to resolve this particular problem.

Mr Fletcher: Motion to adjourn.

The Chair: Thank you, Mr Fletcher. The motion to adjourn has been made. That's not open for discussion, so I will call the regular meeting of the standing committee on regulations and private bills adjourned for today.

The committee adjourned at 1131.

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- *Ruprecht, Tony (Parkdale L)

**In attendance / présents*

Clerk / Greffière: Grannum, Tonia

Staff / Personnel:

Fenson, Avrum, research officer, Legislative Research Service
Kaye, Philip, research officer, Legislative Research Service

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of Ontario**

Third Session, 35th Parliament

**Assemblée législative
de l'Ontario**

Troisième session, 35^e législature

**Official Report
of Debates
(Hansard)**

Wednesday 11 May 1994

**Journal
des débats
(Hansard)**

Mercredi 11 mai 1994

**Standing committee on
regulations and private bills**

**Comité permanent des
règlements et des projets
de loi privés**



Chair: Christel Haeck
Clerk: Tonia Grannum

Présidente : Christel Haeck
Greffière : Tonia Grannum

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
REGULATIONS AND PRIVATE BILLS

Wednesday 11 May 1994

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS
ET DES PROJETS DE LOI PRIVÉS

Mercredi 11 mai 1994

The committee met at 1007 in committee room 1.

TOWNSHIP OF TAY ACT, 1994

Consideration of Bill Pr105, An Act respecting the Township of Tay.

The Chair (Ms Christel Haeck): Ladies and gentlemen, I call the regular meeting of the standing committee on regulations and private bills to order. Our first order of business is Bill Pr105, An Act respecting the Township of Tay. I'd ask the sponsor, Mr Dan Waters, local MPP, and Simon Chester, the solicitor for the township, to come forward. Mr Waters, could you make some opening comments and introduce the applicant, please.

Mr Daniel Waters (Muskoka-Georgian Bay): I'll make my opening comments very brief. This act is just a technical amendment, as we see it. Therefore, I will pass the mike over to my colleague, Mr Simon Chester, who is the solicitor for the township, to answer any technical questions that you might have.

Mr Simon Chester: I've got in the audience this morning Mr Ted Walker, who is the clerk, and Simone Lathan, who is the treasurer of the township of Tay. They would be available if you have any technical questions.

This is a small bill to solve a small problem. It's a problem that essentially relates to the process of approval of debenture financing of capital projects within Tay township.

In 1993, Tay constructed a sewage project for some \$802,000. It's a small project, by the standards of many municipalities in Ontario; it was a fairly major project for Tay. That year, 1993, was a significant year in municipal finance. Up to 1993, long-term debenture financing had been subject to the project-by-project approval of the Ontario Municipal Board. In the time-honoured fashion that many municipal politicians will be familiar with, when the township of Tay passed its bylaws authorizing this project, it made them subject to the approval of the Ontario Municipal Board. That was the old regime for governing approval of capital projects. The OMB had to approve.

In 1993, however, a completely new regime came into force, one that involved debt and financial obligation limits. Instead of having to go to the Ontario Municipal Board on a case-by-case basis, now municipal treasurers had to calculate the debt and financial obligation limits. The Ministry of Municipal Affairs in effect said to them, "Provided that you can show us that the project is within your debt and financial obligation limits, you can proceed."

So we had an old regime—OMB approval—and a new

regime which involved global limits. Unhappily, the township of Tay was caught in the middle. It passed the bylaws under the old regime, making the approval conditional on the approval of the Ontario Municipal Board, but construction was not commenced until 1993. The municipal authorities had become familiar by that point with the new regime, the debt and financial obligation limits. They did their calculations. They saw that this was the only debt obligation of Tay township, that they were well within the limits, and they assumed that they could proceed.

Tenders were issued. The successful bidder was awarded the contract. The sewage project was built.

Unhappily, they now discover that they didn't have and couldn't now get the approval of the OMB, because the legislation has changed. This committee is charged by the Legislature with, in effect, curing a slight technical fix. I can assure you that under the old regime the OMB would likely not have held a hearing and would have approved a half-million-dollar project to debenture-finance sewage works, and under the new debt and financial obligation limits this is the only long-term debt obligation of Tay township. So we're on side under the old rules and we're on side under the new rules.

We come to this committee to approve private Bill 105, which does only two things. Firstly, it confirms a bylaw which gives the municipal authority power to commence and to build the sewage project. Secondly, it says, "And by the way, we deem you to have the approval of the OMB."

Technically, this is the only way that this problem can be solved. It's a minor transitional problem which will not come up again because now all municipalities are governed by the debt and financial obligation limits.

Fairly straightforward. The total debentures are for some half a million dollars. While it's large in the mind of the township of Tay, it's not large in the overall municipal finances of the province.

We'd be pleased to entertain any questions that the committee might have.

The Chair: My rules of order require me to ask if there are any other interested parties who wish to speak to this legislation. Seeing none present, I would ask Mr Hayes if he, on behalf of the Ministry of Municipal Affairs, would make some comment.

Mr Pat Hayes (Essex-Kent): The bill has been reviewed by the municipal finance branch. The Ministry of Municipal Affairs does not have any objections to this bill.

Mr Leo Jordan (Lanark-Renfrew): Will there be other municipalities? I know this isn't a fair question but I'm wondering—perhaps to the Ministry of Municipal Affairs, the parliamentary assistant—is this something we're going to find across the province, other municipalities caught in this same situation?

Mr Krishna Goojha: I am Krishna Goojha from the Ministry of Municipal Affairs. What I would say is that we don't foresee any other municipalities getting into this situation, because now it has been two years since this new regime has been in place. We have been monitoring the last couple of years and things seem to be moving smoothly.

The Chair: Very good. So they're the only one that got caught in the transition.

Mr Ron Eddy (Brant-Haldimand): I don't have a question; I just express support for the application and the bill.

Mr Ron Hansen (Lincoln): The government has no questions on this particular bill.

The Chair: Mr Chester, did I notice that you had something additional to add or was it just out of my peripheral vision that I noticed you moving your hand?

Mr Chester: I was just going to say that our firm has a fair amount of experience in municipal finance and we just wanted to confirm what Mr Goojha said: We're unaware of any other municipal authority that's got itself into this small technical problem. We don't anticipate that we'll be coming back to you on behalf of the municipality.

The Chair: Very good. It would appear that members are ready to vote. I put the question to you: Are you ready to vote? Yes.

Shall sections 1 through 4 carry? Agreed.

Shall the preamble carry? Agreed.

Shall the title carry? Agreed.

Shall the bill carry? Agreed.

Shall I report the bill to the House? Agreed.

Thank you to the members and thank you, Mr Chester. The deed is done.

HAMILTON COMMUNITY FOUNDATION ACT, 1994

Consideration of Bill Pr114, An Act respecting Hamilton Community Foundation.

The Chair: Our next order of business is Bill Pr114, An Act respecting Hamilton Community Foundation. I would ask Mr Abel to come before us, along with the applicants. Mr Abel, would you make some opening remarks and also introduce the applicants, please.

Mr Donald Abel (Wentworth North): It's a pleasure to be here this morning to sponsor Bill Pr114, An Act respecting Hamilton Community Foundation. With me today to present their case are Judith McCulloch, the executive director; Bill Nelson, the past president of the foundation; and James Sweetlove, solicitor with Ross and McBride and also, I believe, a member of the board. I'll hand it over; I believe Jim is going to carry the ball.

Mr James Sweetlove: My remarks will be brief. The Hamilton Foundation's been in existence since 1954. It

was set up under a bill at that time which was amended in 1980. Latterly, it became apparent that it was necessary to update the legislation in order to bring the legislation in line with the types of things that a community foundation wished to address itself to in this day and age. In the course of drafting those amendments and consultation with legislative counsel, it became apparent that we were probably better off to enact an entirely new bill and repeal the old bill, and that is the reason for the piece of legislation before you.

One of the major changes involves the change of the name to the Hamilton Community Foundation to reflect the current status of community foundations in Canada and to better reflect the true role of the foundation. A number of the other provisions that have been changed merely reflect an updating and technical changes. We'd be pleased, of course, to answer any questions that might arise in that regard.

The Chair: That was a very succinct presentation. I would ask at this point if there are any other interested parties who wish to come before us at this time. Seeing none, I would turn to Mr Hayes for any comments from the respective ministries.

Mr Hayes: This particular bill really does not affect the Ministry of Municipal Affairs. However, we do have representation from the Attorney General's office and the public trustee, Larry Fox and Eric Moore, and they would like to make a presentation of some of the concerns that their ministries have on this particular bill.

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Mr Larry Fox: My name is Larry Fox. I'm with the Ministry of the Attorney General.

I wish to comment on behalf of the Ministry of the Attorney General about paragraph 4(1)1 of the bill, which makes the senior judge of the Ontario Court (General Division) a member of the nominating committee.

The Ministry of the Attorney General objects to this paragraph because we have concerns about its implications for the judiciary. In our view, requests by judges for permission to engage in non-judicial duties of this kind should be handled on a case-by-case basis by those whose responsibility it is to manage the judiciary. Legislation stating that by virtue only of his or her office a judge should be expected to perform non-judicial functions may be perceived as compromising the independence of the judiciary.

The ministry appreciates that individual judges may wish to volunteer for such bodies and may be appointed for their personal qualities, not because of their office. However, by mandating the participation of the senior judge, subsection 4(1) may have the effect of imposing an undesirable or undesired non-judicial function on an individual judge.

While the present senior General Division judge in Hamilton may be willing to serve on a nominating committee, there's no guarantee that this commitment will be shared by future senior judges. Yet section 4 may create a public expectation that it is the responsibility of senior judges to assume this position.

As a practical matter, this may make it difficult within

the local community for a judge to decline to serve on the committee regardless of his or her personal preferences. Similarly, there is no assurance that the Chief Justice will always be comfortable with the senior judge serving as a member of the committee. This provision may compromise the Chief Justice's freedom to make decisions on these matters on a case-by-case basis.

The bill places the burden on the judiciary of explaining that a senior judge will not serve and, in a sense, interferes with the discretion of the Chief Justice to make decisions respecting the workload of judges.

For these reasons, the Ministry of the Attorney General recommends that the reference to the senior judge be removed from subsection 4(1).

There is a compromise solution that will allow the appointment of individual judges who wish to serve on the nominating committee and who are supported by the Chief Justice: Allow the nominating committee to choose another member.

Mr Eric Moore: I'm Eric Moore. I'm representing the office of the public trustee.

The public trustee is interested in this bill because of her role in connection with charitable property matters. The Hamilton Community Foundation is a charity, and the provisions of the bill relating to how it will be dealing with property and applying it therefore are of interest to the public trustee.

There are some technical amendments which I understand the applicants are agreeable to, and I would like to explain the reason for the necessity for those amendments to the committee.

Throughout the bill, the words "charitable, educational and cultural" or "charitable, educational or cultural" have been used, particularly in section 2, paragraphs 6 and 7 of section 6, subsections 10(1), 10(2), 10(4) and sections 13 and 16.

To the extent that educational and cultural purposes are charitable, those words are redundant. To the extent that they are intended not to be charitable, they would represent a diversion of charitable property to non-charitable purposes. Accordingly, we have requested, and I understand the applicants are agreeable to, amendments deleting those words.

In paragraph 4(1)6 of the bill, the members of the committee will find a reference to "United Way of Burlington, Hamilton-Wentworth." We have examined the existence of that organization and have discovered that it appears to be a style or name used by a charity that is incorporated as the Hamilton and District United Appeal. It is a technical amendment, and I understand this amendment is also agreeable to the applicants.

In subsection 10(3) of the bill, and that is the section dealing with the ability of the foundation to accept money from other charities and manage it on their behalf, the committee members will note that towards the end of that section, it provides that the foundation may, upon request of the organization from which it has received funds, return the funds to that organization.

We have suggested that the bill be amended so that the word "may" be replaced with "shall." The foundation's

role is as a manager rather than as an owner of those moneys.

Finally, members of the committee will note that subsection 10(2) of the bill refers to the foundation disbursing funds to qualified donees as defined in the Income Tax Act. Qualified donees include many non-charitable organizations: municipalities, national amateur athletic organizations; all worthy, but not charitable. The public trustee has suggested, and again I understand the applicants are agreeable, that this wording should be replaced with "registered charities under the Income Tax Act." That will then avoid the possibility of charitable property being diverted to admittedly worthy but non-charitable purposes.

The Chair: Thank you, Mr Moore. I would now turn to Mr Fletcher, who had indicated he had a question.

Mr Derek Fletcher (Guelph): You're expanding from within Ontario to within Canada now. Is that part of the purpose of this?

Mr Sweetlove: Sometimes we find that when funds are to be expended they may be for a use, for instance, that's primarily within Ontario but some of the funds may be used outside Ontario for a particular purpose. We find that it's a little bit restrictive. Our main focus, of course, is the communities that this has been set up to serve: Hamilton, Wentworth and Burlington. Sometimes that spills over into Ontario, and occasionally you will get a request for funding where the funds are not going to be used exclusively within that area but some portion may be used outside Ontario.

Mr Fletcher: You mean if you get a request from Alberta for something, you may donate to that?

Mr Sweetlove: No. It's usually because the donor we're giving to may be an Ontario organization but may use some of its funds outside Ontario.

Mr Fletcher: What are the educational/cultural purposes? What are we talking about? I'm just trying to find out about your organization.

Mr Sweetlove: They could be very broad. They could be, for example, providing bursaries or scholarships, that sort of thing. The cultural things could be assisting in the putting on of cultural exhibits. It could be the full range of educational or cultural purposes.

Mr Fletcher: I notice that you have a special fund for the relief of persons or families who suffer from a lot of different things. Is that tornado relief, things like that, foreign aid?

Mr Sweetlove: We were talking about that on the way down this morning, because it had been raised by Mr Moore. I think the only time that has in fact been used was during the first phase of famine in Ethiopia and Somalia. A fund was set up in a local area with respect to that. I think that's the only time in the history of the organization that's in fact been used.

Mr Fletcher: I have a concern with the judge being there also. You have the president of the Hamilton and District Chamber of Commerce, the chair of the council of the regional municipality and the mayor of Hamilton. Is this a committee or are they board members?

Mr Sweetlove: What we're talking about here in fact

is a nominating committee. The nominating committee meets once a year for—I understand that the most it has met for in the last number of years is an hour at a time—a slate of new directors, because historically three directors have retired each year. Directors serve for a four-year term on a rotational basis. That nominating committee meets to nominate the new directors for the ensuing term and to fill vacancies on the board. They are not board members per se. That is their sole function.

With respect, if I might respond if it's appropriate, to the question of the judge serving on the committee, this is not an extension or anything new. The senior judge has served in this capacity for 40 years. This type of legislation in fact exists for community foundations all across the province and has recently been enacted with respect to newly set-up community foundations. We were one of the first ones set up, and we feel very strongly that we don't want to have something taken away from us which we see as important to the status of the community foundation, within the foundation to have the judge serving in this rather proscribed narrow function as a member of the nominating committee. In fact, over the last 40 years, the judge has often taken upon himself, and I would think almost without exception, to chair that committee, considering it an honour to do so.

1030

Mr Fletcher: This probably has nothing to do with the bill itself, but does the nominating committee have any guidelines, such as gender parity and affirmative action, when it comes to nominations?

Mr Sweetlove: The community foundation as a whole has a thrust to try and make the community foundation, principally through the board members, as representative of the community as possible, and all those things are taken into consideration.

Mr Fletcher: Yes. I just didn't see it in here; maybe a statement would be nice.

Mr Eddy: I have two questions, the first being the request or direction from the public trustee. I understand there are amendments to cover all those points, that the applicants are agreeable to all those changes and that we have them all before us. Is that correct? That's my understanding, but I just wanted to clarify it.

Mr Moore: My understanding is that the applicant is agreeable to all the amendments we have.

Mr Eddy: And the amendments have been prepared for us to deal with?

Mr Moore: Yes.

The Chair: Actually, since Mr Eddy has raised the point, we had one package of amendments and there were two additional points that were just distributed.

Mr Eddy: That's my second question. I believe that has to do with the points raised by the representative of the Attorney General.

The Chair: Let me put it to you this way: They relate to section 4. For ease of following along in the process when we come to that point, I hope members have taken the advantage of some time to insert them in the proper places so we won't have any confusion.

Mr Eddy: That's the first thing we did.

The Chair: Good, Mr Eddy. I'm glad that members availed themselves of that opportunity.

Mr Eddy: So the points raised by the representative of the public trustee are included in the amendments, and if we pass the amendments, the public trustee's representative approves of the bill as amended.

Mr Moore: That is correct.

Mr Eddy: The second question has to do with the Attorney General's representative. The proposed amendment regarding paragraph 1 of subsection 4(1), regarding the senior judge: Is that proposed amendment acceptable to the applicant? I gather it is not from what was just said, but I'd like clarification.

The Chair: You're directing that question to Mr Sweetlove?

Mr Eddy: Yes, or is there an alternative suggestion at this point?

Mr Sweetlove: Our position is that we would prefer not to see that amendment to the legislation. We would prefer to see the nominating committee as constituted in the bill before you, which carries forward the existing situation.

Mr Eddy: Further on that particular point, because I would tend to expect that the government members would support the request of the representative of the Attorney General regarding this section, I wonder if there couldn't be an alternative clause inserted. What would the Attorney General's viewpoint be on a change to read, "A member of the judiciary who is willing to serve may be appointed," or something of a general nature like that? If the Attorney General's representative is willing to agree to that, I think it covers the objection from the Attorney General and I would hope it would meet the perceived need by the applicant.

Mr Fox: I think that amounts to the same provision we have now, because it puts the burden of explaining on the judiciary more as a corporate body than as an individual. From our perspective, it amounts to the same thing.

Mr Eddy: I disagree. "The foundation may appoint a member of the judiciary who is willing to serve," is what I had in mind. It's completely optional, so to speak, or voluntary. Maybe I wasn't as clear as I should be, but it would be something of a general nature, making it optional.

Mr Fletcher: The problem is the judge being on the committee itself. Even if you give leeway, the probability of the judge being on the committee is still there.

Mr Eddy: Thank you for your support on that suggestion, Mr Fletcher, because it leaves it open to both sides.

Mr Fletcher: Yes, but there is a problem with that.

Mr Eddy: No, there isn't, if it's completely optional. What I propose is wording that "A member of the judiciary who is willing to serve may be appointed." So it gives the intent of having a member of the judiciary.

The point that was being made is that you're imposing a duty upon a judge, a specific judge, the senior judge. This would take that away. You're not imposing any duty

on anyone, but you are making it possible for a member of the judiciary who wishes to serve to indeed serve. Secondly, then you're giving the intent to the community foundation of who it actually wants represented in there, that it is a representative of the judiciary. I think it meets the best of both worlds.

Mr Fletcher: I don't know about that.

Mr Eddy: It's a middle ground. I think it's beautiful.

Mr Fox: In a way, the motion would allow that, although it's much more general than what you've suggested.

Mr Eddy: Yes, very general.

Mr Fletcher: Then if it were to be that general for the judge, it should be that general for all members.

Mr Eddy: Yes. It could be any judge who is willing to serve.

Mr Fletcher: No, no. I mean the mayor shouldn't be obligated, the same way as the judge shouldn't be obligated.

Mr Eddy: That has not been raised as a point. I don't know whether the other bodies that would have representatives, or indeed these specific people, have been approached. They're honorary positions.

We have to realize that nobody can be forced to serve in this capacity. They can be named, but they don't have to serve if they don't wish to. Indeed, most municipalities have a bylaw authorizing the mayor to appoint any other member of council to serve in any capacity in his or her stead. So I don't think that's at issue.

Mr Fletcher: In the same breath, though, Mr Eddy, it does exclude people from joining, if it's that way.

The Chair: Mr Moore has a comment to make in this regard.

Mr Moore: Just as a point of clarification, because the member had requested whether all the changes we had suggested were in the amendments put before the committee: The bundle of amendments that I've received does not contain the amendment that we have requested for section 16.

The Chair: I must admit, I do have a copy and I believe that may have been distributed to members. If everyone would please check their package of amendments, section 16 is handwritten.

Mr Moore: Thank you. I've received it. That's correct.

The Chair: So that will deal with some of these concerns?

Mr Moore: Yes.

The Chair: Any further questions, Mr Fletcher? No? Seeing none—

Mr Eddy: Madam Chair, I don't think we've completed the matter I raised, the second point. Will a representative of the Attorney General give the viewpoint of whether they have any objection to that proposed wording? Then I'd like the applicant's response to that.

Mr Fox: Our position would be that it would not be acceptable, because it's still in the legislation stating that there's an expectation that a judge should be expected, by

virtue of his or her office, to perform non-judicial functions.

Mr Eddy: No, that's not correct. I disagree with that interpretation. It leaves it completely open and optional.

The proposal is to insert wording like "a member of the judiciary who is agreeable to serving may be appointed." That is completely voluntary and doesn't raise any expectations unless a member who is approached wishes to serve. It's the solution to this particular problem. Otherwise, we're going to delete that. It's perhaps more unacceptable to the applicant, but I'd like to hear the applicant's viewpoint on this matter before we delete it.

1040

Mr Fletcher: But, Ron, you've said it before. You said that any person does not have to take the position. Whether you put "may," "shall," or anything, they still don't have to take the position, so there is no real reason to change it to "may."

Mr Eddy: Oh, you mean you're in favour of what's here. Oh, I didn't realize that.

Mr Fletcher: What I'm in favour of is what we've been told about the judiciary sitting on the committee. I agree with what the counsel has said, and I don't think the changing of "may" is going to make any iota of difference to what they have said.

Mr Eddy: Yes, it does change it completely.

Mr Fletcher: No.

The Chair: I believe we have come to the point where there is a difference of opinion, and rather than—
Interjection.

The Chair: Mr Sweetlove, if I may finish my remarks. Then we will have to obviously make some decisions, but following up on Mr Eddy's comment, I will ask Mr Sweetlove to make a final comment, when I will put forward the request if members are prepared to vote.

Mr Sweetlove: Two things: First of all, I would like to reiterate that if you make this change, it will be taking something away from this foundation which we feel is important and which other foundations in this province have today and which will affect the status of the foundation in the community.

Number 2, I would like to point out to you that the legislation as proposed provides for substitute members if a member is unable or unwilling to sit. The nominating committee may choose another member, who could be another member of the judiciary or otherwise.

Number 3, I would point out again that this is legislation that is in effect today. If we were coming before you merely with amendments to our existing legislation rather than a new bill, this might not be an issue before you today. We chose to bring this forward as a new bill without anticipating that such a narrow position was going to be taken by the Attorney General's department.

Mr Hayes: Do you feel that this amendment will stop you from filling that position with a senior judge of the Ontario Court?

Mr Sweetlove: It won't necessarily stop us from it, but it's important for us to be able to say to the commun-

ity, particularly when we are recruiting people to serve on the board, "The nominating committee for the board of directors is composed of the following persons." That's important to us, and to be able to say that the nominating committee is composed of the senior judge of the court sitting in Hamilton is important to us, as well as the head of the United Appeal etc. If we have to say, "It's composed of five other people and someone else who will be chosen who may be a judge," that's not quite the same.

Ms Judith McCulloch: There are community foundations across Canada now, about 50 of us, and each one has a similar person named in its legislation. I might say that the Winnipeg foundation's appointing board has two such persons: the Chief Justice of Manitoba and the Chief Justice of the Court of Queen's Bench. They're named in their legislation and they serve.

Our senior judge, who's been a member, as we've said, for 40 years now, provides, we believe, the foundation with independence and credibility in the community, which is also very important for donors who are entrusting the use of their entire estates, in some cases, to the foundation's board of directors. Therefore, we feel it's very important to have that independent and highly regarded involvement of the judiciary and the other members of this committee.

The Chair: I'm sorry. I was trying to ask a question of Mr Fox, and he was obviously distracted from some of your points. Can you address any of Ms McCulloch's points at this time?

Mr Fox: I sort of lost it, and I'm sorry about that. Can you just reiterate it briefly?

Ms McCulloch: I said there were about 50 community foundations across Canada, all of which have similar legislation in place. In fact, in Winnipeg, two of the five members of the Winnipeg foundation's appointing board are the Chief Justice of Manitoba and the Chief Justice of the Court of Queen's Bench. These are named in their legislation.

We have had the senior judge in our district named as a member of our nominating committee for 40 years, and we certainly did not expect to have that position withdrawn. It's very important for us in our community to have independence and to have credibility with the community and with donors who in some cases are entrusting their entire life savings and estates to the foundation when they die. It's important that the board of directors that is selected by this independent nominating committee is in fact well selected and selected by people who are impartial and well regarded in their community.

We feel the senior judge in our area fulfils that position very well. In fact, they have served willingly and, as Mr Sweetlove has said, chair the committee willingly.

Mr Fox: When we looked at the legislation, we looked at it as the bill itself, not on the basis of any comparison with other foundations in Ontario or in the rest of Canada. We're approaching it as a matter of principle and also with an awareness that other Ontario legislation in this context, if such exists, and other contexts, often at the local level, imposes these non-judicial duties on judges.

In a sense, we looked at the issue anew, you might say, or discretely. We didn't look at it in the context in which you've established it and tried to explain away past practice or practice that's going on elsewhere. Looking at the bill itself, within its four corners, this question was raised. If another community foundation sent a bill which our office was asked to review tomorrow, we'd come out with the same response.

Mr Eddy: You can't say that. We can't say what we would do in the future. I can't and no one else here can, really. It might be the intention at this time to do that if one came forward tomorrow, but you can't really say that, because somebody else may be here making a representation with an entirely different viewpoint. That happens, as we've run into on many bills on many occasions.

We're to the point where the Attorney General wants a change, wants a deletion. There has been an amendment prepared to do that. I would expect that it will be presented and the government has the majority and will pass that.

My question to the applicant is, do you wish to proceed with the bill or do you feel that you have the alternative of bringing in amendments to the bill at a future date? Because it appears that will be deleted, so I'd just like to know that. I will be supporting the inclusion of that clause, myself.

Mr Sweetlove: We would be proceeding with the bill if the amendment as proposed were to go forward, in spite of the fact that we feel that amendment should not go forward.

1050

Mr Hansen: I've got a problem with the way the bill is without the amendments. I think the board of directors can sit down and say, "These are the people whom we want to choose as our nominating committee." When you restrict people from other areas—it could be the CEO of Stelco you would like next year to be on this nominating committee. Maybe he's not a member of the chamber of commerce as a representative. So you've restricted a lot of high-profile people who could be on this nominating committee. I'll have to vote for the amendments coming in and will vote against the bill the way it stands. Can I get a reply back if I'm not reading this right?

Mr Sweetlove: I have some difficulty with what Mr Hansen has said. The nominating committee's sole function is to nominate members of the board of directors. The members of the board of directors may be any persons in the community. The nominating committee's sole function is to meet once a year and to nominate members for the board of directors. They have no function whatsoever in the administration of the foundation.

Mr Hansen: But what I'm saying is that the board would have that opportunity to pick the nominating committee.

Mr Sweetlove: The nominating committee is set by the legislation. That's one of the reasons for having a nominating committee, because it is completely independent and separate from the board. If the board were enabled to select the nominating committee, it could

presumably be self-perpetuating. But the legislation says that the members of the nominating committee "shall be" the mayor of the city of Hamilton, the regional chairman, the president of the Hamilton district United Appeal. We don't pick those people. They're people who sit on the nominating committee by virtue of the office that they hold, and we think that's important.

If you take away one of those people, then the nominating committee will nominate someone else to fill that role. You haven't said what office is going to fill that role. We think it's important to have people serving who hold certain offices in the community.

Mr Randy R. Hope (Chatham-Kent): My question is for legal staff, because it's named as the General Division of the court and in subsection 9(3) it clearly indicates the Ontario Court (General Division). My question would be, wouldn't there be a conflict of interest? Because you've named the judge in the nominating part of it and then in section 9 of the bill it clearly also indicates about applying to the Ontario Court (General Division), I'm just curious about a conflict. I've been listening to the concerns that were raised and I started reading the bill and I saw where it's been indicated where the board may make application to a judge, and then you've also indicated the General Division. Would there be a potential conflict there?

Mr Fox: I haven't thought about this issue until this moment, to tell you the truth.

Mr Eddy: I'd like to—

The Chair: Is it a point of order?

Mr Eddy: Yes. It was raised with me that surely these amendments could have been looked at and worked on with the applicant and an amended bill have come in that was acceptable.

Mr Fox: In response to that, I think the Hamilton Community Foundation, through Mr Sweetlove, has been aware of the reservations of the Attorney General for a few months. This is not a surprise. There may be a disagreement, but it's not a surprise. There's been correspondence and there's been telephone conversation.

I'm not sure I see there's a conflict, in that the nominating committee has a circumscribed function of the kind described by Mr Sweetlove. They would be choosing individuals to serve on the board of directors, and it's the board of directors and its operation of the foundation that might lead somewhere down the line to an application to a General Division judge. Perhaps Mr Sweetlove has some views on that. I myself don't really see a conflict simply by virtue of discharging the duty of a person being on a nominating committee.

Mr Sweetlove: If I could respond to that, if the judge had a perception that there was a conflict, he would of course disqualify himself from hearing the variation application, which often happens, where a judge might have a matter come before him from the firm where he used to be a partner, for example. He will disqualify himself and it will just be passed on to another member of the bench sitting in that community. And I agree with Mr Fox, that there should not be a conflict of interest merely because the judge sat on a nominating committee

and an application for a variation came before him. But if the judge himself had that perception, he could disqualify himself from hearing the variation and another judge would hear the matter. That happens all the time.

The Chair: There are no further questions from anybody who has indicated, so I am going to follow the next order of business and ask members if they are ready to vote. Agreed? Agreed. I'd like to remind members there are a number of amendments here, so I hope everyone's got them in order.

Shall section 1 carry? Carried.

Mr Hansen: I move that section 2 of the bill be amended by striking out "educational and cultural" in the third and fourth lines.

The Chair: All those in favour of the amendment? Anyone opposed? Seeing none, the amendment is carried.

Shall section 2, as amended, carry? Carried.

Shall section 3 carry? Carried.

Shall section 4 carry?

Mr Hansen: I move that subsection 4(1) of the bill be amended by striking out paragraph 1.

The Chair: All those in favour of that amendment? Anybody opposed? We have two members opposed, but that does mean that the amendment is carried.

Mr Hansen: I have another amendment to subsection 4(1).

I move that subsection 4(1) of the bill be amended by striking out paragraph 6 and substituting the following:

"6. The president of the Hamilton and District United Appeal; or its successor organization."

The Chair: All those in favour of that amendment?

Mrs Ellen MacKinnon (Lambton): I don't seem to have what Mr Hansen's referring to.

The Chair: That was part of that second package. I believe everyone else has the motion. Would you please read it again, Mr Hansen, so that everyone's clear?

Mr Hansen: I move that subsection 4(1) of the bill be amended by striking out paragraph 6 and substituting the following:

"6. The president of the Hamilton and District United Appeal; or its successor organization."

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The Chair: All those in favour of that amendment? Agreed.

Mr Hansen: I move that section 4 of the bill be amended by adding the following subsection:

"Additional member

"(2.1) The nominating committee may appoint one additional person to be a member of the committee."

The Chair: All those in favour of that amendment? Agreed.

Shall section 4, as amended, carry? Carried.

Shall section 5 carry? Carried.

Shall section 6 carry?

Mr Hansen: I have an amendment to section 6 of the bill.

I move that section 6 of the bill be amended,

(a) by striking out "educational or cultural" in the fourth line of paragraph 6; and

(b) by striking out "educational and cultural" in the fourth line of paragraph 7.

The Chair: All those in favour of the amendment? Carried.

Shall section 6, as amended, carry? Carried.

Shall sections 7, 8 and 9 carry? Carried.

Shall section 10 carry?

Mr Hope: I have amendments to section 10.

I move that subsection 10(1) of the bill be amended by striking out "educational or cultural" in the fifth line.

The Chair: All those in favour of that amendment? Agreed.

Mr Hope: I move that subsection 10(2) of the bill be struck out and the following substituted:

"Donations for the purpose outside of Canada

"(2) The foundation may accept a donation even if some portion of the benefits of the donation is directed to be applied to charitable purposes outside of Canada but the recipient of such portion of the benefit must be a registered charity under the Income Tax Act (Canada)."

The Chair: All those in favour of the amendment? Carried.

You have another amendment.

Mr Hope: I move that subsection 10(3) of the bill be amended (a) by striking out "educational or cultural" in the sixth line and (b) by striking out "may" in the ninth line and substituting "shall."

The Chair: All those in favour of that amendment? Carried.

Shall section 10, as amended, carry? Carried.

Shall sections 11 and 12 carry? Carried.

Mr Fletcher: I have an amendment to subsection 13(1) of the bill.

I move that subsection 13(1) of the bill be amended by striking out "educational or cultural" in the second-last line.

The Chair: All those in favour of the amendment? Carried.

Shall section 13, as amended, carry? Carried.

Shall sections 14 and 15 carry? Carried.

Mr Fletcher: I move that section 16 of the bill be amended by striking out "educational or cultural" in the sixth line.

The Chair: All those in favour of the amendment? Carried.

Shall sections 17, 18 and 19 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Mr Sweetlove: Point of information.

Mr Mr Anthony Perruzza (Downsview): Madam Chair, we're in the middle of a vote.

Mr Sweetlove: That's fine. We've changed our number of members on the nominating committee.

Mr Perruzza: We're in the middle of a vote.

The Chair: I'm sorry, Mr Sweetlove, but Mr Perruzza is in fact correct: We're in the midst of a vote.

Mr Sweetlove: That's fine. He's created a problem of which he's unaware.

The Chair: Shall the bill, as amended, carry? Carried.

Shall I report the bill to the House? Agreed.

Mr Sweetlove, you had a comment?

Mr Sweetlove: My comment was that you've now changed the nominating committee from six people to five people. The quorum is four people. We would have requested, had we known that this was going to take place, that the quorum be set at a lower number, perhaps three out of five. It's only six people if the nominating committee adds another person, but if they don't do that, it's only a five-person committee.

The Chair: First Mr Eddy, please.

Mr Eddy: Madam Chair, would you explain to us the process for amending this bill to meet that problem before it's reported to the House? Is that possible? I hope it would be.

The Chair: I will turn to legislative counsel at this point and request that point of information.

Ms Susan Klein: That's a procedural question and I think I'll refer it to the clerk.

Clerk of the Committee (Ms Tonia Grannum): We'd have to get agreement from the committee to reopen the bill and deal with it here, before we send it.

Mr Eddy: At this time?

Clerk of the Committee: At this time.

Mr Eddy: If a motion is acceptable, I would move that we indeed reconsider the bill at this time, in view of the fact that the applicant has made the members of this committee aware of a problem with the bill as now proposed by us. I would think now is the time to do it, rather than hold up the reporting of the bill to the House and then have the applicant coming back in. It's to expedite the matter.

The Chair: Thank you, Mr Eddy. Actually, we had Mr Daigeler's hand go up before yours. Mr Daigeler, was this on the same point?

Mr Hans Daigeler (Nepean): On the general point, yes. I must say, while I'm not a regular member of this committee, I have from time to time sat on this committee for almost eight years and I find highly unusual what is happening here. Either the presenters or the ministry officials didn't do their homework properly, but what we're seeing here is really very, very poorly prepared, I must say.

Mr Perruzza: I essentially concur. What we're doing is rewriting bills here, sort of on the spot and from cover to cover. I'm not really clear on what would be required to do what the gentleman has asked. I really look for direction from you, but what I would support doing is perhaps deferring this for a couple of weeks and letting the ministry people have another look at it before it comes back to us so that we are able to proceed with it. But I concur with Mr Daigeler.

Mrs MacKinnon: I guess my question should be directed to Mr Sweetlove. In one of our amendments we said that the nominating committee may appoint one additional person to be a member of the nominating committee. Does that not help your cause, or do you feel that's just too loosely worded?

Mr Sweetlove: If the nominating committee does not appoint another member, then there is a committee of five persons. They don't have to appoint another member.

Mrs MacKinnon: Would it be helpful if that particular amendment was "shall" appoint an additional person as opposed to "may"? I'm not very good at all this technical stuff, trust me. I'm used to raising kids.

1110

Mr Hansen: Since there have been some changes here, I don't want to see the bill held up. I don't want to see these people come forward before this committee again, as Mr Perruzza had said. They've got other things to do than come here in a volunteer group, so I don't want to waste any more of their time. I would like to put a motion forward that the quorum be dropped to three if the—

Mrs MacKinnon: Wait a minute. We've got a motion on the floor.

Mr Perruzza: You've got to read over the bill. You can't move it.

Mr Hansen: As I say, you've got support on this side of the floor for three.

The Chair: Mr Hope, did you want to make a motion?

Mr Hope: I would ask, as I take it Mr Eddy has requested, that the bill be reopened and that we deal with subsection 4(5) of the bill. If what Mr Eddy is asking is that we open the bill and only deal with subsection 4(5), I agree that unanimous consent can be given.

The Chair: It would appear that we have agreed; the consensus is there to reopen the bill. Members, we have a motion.

Mr Perruzza: Could we hear from the ministry people on the implications here, please?

Mr Fox: There are no implications whatsoever. It's eminently reasonable and makes sense to lower the quorum from four to three in the circumstances.

Mr Hope: I move that subsection 4(5) of the bill be amended by striking out in the second line "four" and substituting "three."

The Chair: All those members have heard the motion.

Mrs MacKinnon: I have a question.

The Chair: We are in the midst of the vote, Mrs MacKinnon.

Mrs MacKinnon: I can't ask a question?

The Chair: All those in favour of the quorum number being reduced to three?

Mrs MacKinnon: Can I refuse to vote?

The Chair: Yes. The motion is carried.

Mrs MacKinnon: I really have some concern about this. A quorum of three on a nominating committee?

The Chair: Three out of five. There are only five people on the committee. Three people would be there.

Mr Eddy: It's a rule with the Municipal Act that you must have three out of a five-person council. It's a common thing. I can see no problem with it.

Mrs MacKinnon: So through you to Mr Eddy, do I understand that this is acceptable, three out of five for a quorum on a nominating committee?

Mr Eddy: Yes, it's a majority.

Mrs MacKinnon: I find that very low.

Mr Fletcher: They use it on the school boards.

Mr Eddy: Yes, it's a majority vote.

Interjections.

The Chair: Order, please. The noise level in here with the reverberation is very confusing. We now will vote on section 4, as we had reopened it.

Shall section 4, as further amended, carry? Carried.

Mr Hope: Madam Chair, I move that we revert back to voting on the bill.

The Chair: Thank you, Mr Hope.

Shall the bill, as further amended, carry? Carried.

Shall I report the bill, as further amended, to the House? Agreed.

ONTARIO SOUTHLAND RAILWAY INC. ACT, 1994

Consideration of Bill Pr100, An Act respecting Ontario Southland Railway Inc.

The Chair: Our next order of business is Bill Pr100, An Act respecting Ontario Southland Railway Inc. Mr North is the sponsor.

Thank you, Mr North, for your patience. As you can see, not all bills move through in five minutes. I would ask you, as the sponsor of this application, if you would make a few opening remarks and then introduce the applicant.

Mr Peter North (Elgin): I realize that the committee has just been through quite an ordeal, so I'll try to keep it brief. To my right is Jeff Willsie, who is president of Ontario Southland Railway, and he's here today to explain a few points about the bill. I'll let you go ahead, Jeff.

Mr Jeff Willsie: The bill is necessary for the Ontario Southland Railway to actually operate trains in the province of Ontario. It requires special legislation. The Ontario Southland Railway was formed from the people who own and operate the chartered provincial railway, Port Stanley Terminal Rail. Port Stanley Terminal Rail isn't interested in operating freight trains and expanding into lines that are being abandoned by CN and CP. Ontario Southland Railway is, and that is the purpose of the bill.

The Chair: Thank you, Mr Willsie. At this point I'd like to ask if there are any other interested parties who wish to come forward. Seeing none, Mr Hope.

Mr Hope: Does the letter on our desks indicate an interested party, just for technical clarification? I've got a letter from the Great Canadian Dinner Train Co.

The Chair: Thank you. Yes, it is. I had managed to bury that on my desk.

Mr North: We don't have that letter in front of us.

The Chair: The clerk will make sure you get a copy.

All members have a letter here from the Great Canadian Dinner Train Co. It is signed by Mr Roy Broadbear, president. I hope you'll just take a moment to review that piece of correspondence before we move on. As you will notice, the letter is in fact supportive of the application.

Mr Hope: It's supportive, but it also indicates concerns that it doesn't take away.

Mr North: I actually know both sides of this particular issue. There's an interest by Mr Broadbear and his group to operate this dining train over Port Stanley Terminal Rail, which in turn Ontario Southland has hopes in the future of operating on as well. I can let Jeff address the issue, because I'm sure that he can explain it more fully than I.

Mr Willsie: The concern expressed here is that this gentleman would like to operate trains over the Port Stanley Terminal Rail, which is a Port Stanley Terminal Rail issue. It's entirely up to Port Stanley Terminal Rail whether it will allow this company to use its trackage. The trackage that he's concerned about, the St Thomas, is owned by the government of Ontario. It was purchased in order to preserve the transportation connection between Port Stanley Terminal Rail and the federal railways.

Although I can't speak for Port Stanley Terminal Rail here on an OSR bill—

Mr Perruzza: Point of order, please.

The Chair: Could you allow Mr Willsie just to finish?

Mr Perruzza: That's my point of order: This guy, Broadbear, wrote a letter saying: "I have no problem with this application. However, I want to protect my interests." We don't know what Mr Broadbear's interests are. We're only going to get a perspective of Mr Broadbear's interests through this gentleman, which I think is unfair, given that Mr Broadbear can pick up the Hansard and re-read your interpretation of what his or their interests are.

My point, Madam Chair, is simply to move this letter to the side, because obviously if Mr Broadbear had an interest which he wanted to explain to the committee, he would have come to the committee and explained it. Simply deal with the merits of the bill, as requested by the people who are before us today. For us to consider this as part of the considerations of the bill with only a one-sided interpretation I think is unfair and not a proper way to go.

1120

The Chair: If I may, Mr Perruzza, we have dealt with similar correspondence on other issues and have accepted it. This is not the first time that letters regarding bills that have come before this committee have been included as part of the package, and have definitely been included as part of the interested parties. Mr Broadbear—

Interjection.

The Chair: Excuse me, Mr Perruzza. I am providing the clarification I believe that you are seeking. Mr Broadbear was in fact going to attend this morning. However, he sent a fax yesterday indicating the follow-

ing: "I will not be able to attend the committee hearing for OSR, May 11, 1994. Please present the following concerns for the committee's consideration." That's signed by Mr Broadbear. You have a copy of that letter.

Mr Perruzza: Well, we don't know what his interests are.

The Chair: However the committee proceeds to accept that letter is obviously your choice. If you personally prefer to totally discount it, that is your choice. Other members may use this for their information. They may decide to take his information, Mr Willsie's and Mr Broadbear's, in another light. That is their choice.

Mr Perruzza: There's no information here.

The Chair: He has raised one or two points of his concern. You may wish to discount it yourself. The other members may wish to take it as information.

Mr Perruzza: Hans, you explain it to her, will you?

The Chair: Having addressed, I believe amply, the concern at this point, Mr Willsie, had you finished your comments?

Mr Daigeler: Madam Chair?

The Chair: One moment, please. Thank you, Mr Willsie. Mr Daigeler.

Mr Daigeler: I wasn't quite clear, since you went into quite an explanation, whether you accepted Mr Perruzza's intervention as a point of order. I just want to point out that this was clearly not a point of order; it was a point of intervention which should be coming in the normal rotation.

The Chair: Thank you, Mr Daigeler, for your intervention, and we'll move on. Mr Willsie, did you have any additional remarks to make?

Mr Willsie: Not really. I'll answer any questions.

The Chair: It's been a good morning. Before we get caught up in more points of order at this point, I'm going to turn to Mr Hayes, if he has any comments on behalf of the Ministry of Municipal Affairs.

Mr Hayes: We haven't received any comments from any other ministry, and the Ministry of Municipal Affairs does not object to this bill. Thank you very kindly, and I'm glad you're all here this morning.

Mr Fletcher: On a point of clarification, Madam Chair: I have a letter in this package dated April 19, 1989, signed by an R.E.F. Eddy. I'm just wondering if it's the same R.E.F. Eddy I am facing right now and whether that's a conflict. I'm just wondering.

Mr Eddy: It was at a time when I was a large toad in a small puddle, which is the reverse, I must say, of what I find myself in today.

The Chair: Under the circumstances, do you feel your question has been appropriately answered, Mr Fletcher?

Mr Fletcher: I believe it has been.

The Chair: Are there any other questions at this point?

Mr Hansen: I move that we call the questions.

The Chair: Thank you, Mr Hansen. Are the members ready to vote? Yes?

Shall sections 1 through 13 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you, Mr Willsie, for your time and patience this morning. Mr North, likewise.

COUNTY OF DUFFERIN ACT, 1994

Consideration of Bill Pr109, An Act respecting the County of Dufferin.

The Chair: Our last order of business for this morning is related to Bill Pr109, An Act respecting the County of Dufferin.

I would ask Mr Tilson to come forward.

Interjections.

The Chair: Could we have some order, please. Mr Hansen, you might like to move outside.

Good morning, Mr Tilson. I would ask you, as I have asked of other presenters this morning, to make a few opening remarks and to introduce the applicants.

Mr David Tilson (Dufferin-Peel): As a sponsor of this bill, I would like to introduce the warden of Dufferin county, Pat Kalapaca; the counsel for the county of Dufferin, Patricia Sproule Ward; and the clerk-administrator of the county of Dufferin, Scott Wilson. Also present in the committee's gallery is the chief administrative officer for the town of Orangeville, Pat Moyle, and the treasurer of the county of Dufferin, Jim Hewitt.

The presentation will be made by the warden, Pat Kalapaca.

Ms Patricia Kalapaca: Very briefly, I'm trusting that all of you have a copy of the compendium of background information. However, I want to bring it to your attention that this matter on representation at the county level, and the number of votes and weighting of votes, has been before county council since 1992, at which time we had a motion to set aside our restructuring county, addressing all of the services and representation issues in Dufferin county, until this specific area had been dealt with.

Through a series of motions for a variety of reasons, this whole issue was not actively pursued until the fall of last year, when we met with the assistant deputy minister. He advised us at that time that he was quite receptive to us going ahead with one portion of a change within the structure of Dufferin county before addressing the others. With the endorsement of county council, we have created this piece of legislation to address the inequities of representation, particularly on the part of the town of Orangeville, which has grown significantly since county structure came into being.

If there are questions, myself and our counsel would be pleased to answer them.

The Chair: Thank you. I know all members have had the chance to peruse this. We've had some similar bills before us in recent weeks. At this point, I would ask if there are any other interested parties who wish to come forward. Is there someone here from the town of Orangeville?

Mr Tilson: Ann Armstrong is shown on your agenda as being present, and she is not present this morning.

The Chair: We have a gentleman who just raised his hand at the back. I ask one of the other members to vacate the dais and have this gentleman come forward.

Mr Patrick Moyle: My name is Patrick Moyle. I'm the chief administrative officer with the town of Orangeville. The town of Orangeville council has reviewed this proposed bill and is supportive of the bill subject to some very minor amendments which Patricia Sproule Ward will speak to.

Ms Patricia Sproule Ward: You'll note that in section 6 of the bill there is a local option for municipalities that are represented by a mayor to have the mayor, as the head of council, sit at the county council level with the Reeves, who are also the heads of their respective councils. The town of Orangeville, by its council, has decided that, other than the 1994 election, in all future elections it wishes to be permanently represented by its mayor and the reeve and doesn't want to have the opting-in clause applied to it specifically.

1130

The Chair: Are there any additional amendments that you wish to bring to our attention?

Ms Sproule Ward: There are two other amendments. One is dealing with subsection 4(3). In the bill as drafted, the municipalities will have their votes divided among two representatives. If their votes happen to be equal, the most senior municipal council position in the municipality that they come from would exercise the extra vote.

It has been suggested to us by the Ministry of Municipal Affairs that the senior municipal position is not a recognized concept in law and that should be changed to reflect specifically that the mayor would have the extra vote, and if not a mayor sitting on county council, then the reeve would have the extra vote.

The other amendment is with respect to subsection 6(6), which is the opting-in clause I just referred to. In that particular one, we had asked the local municipal clerks that if they did in fact pass a bylaw under section 6 indicating that someone other than the reeve and deputy reeve would be the representative on county council, that bylaw be forwarded to the clerk of the county of Dufferin within one month of its passing.

Again at the request of the Ministry of Municipal Affairs, we're asking that the reference to "within a month of its passing" simply be eliminated or deleted altogether and that the mandatory that they shall provide the bylaw to the clerk remain in the bill.

The Chair: I believe there are no further interested parties who wish to come before us, so I would ask Mr Hayes from the Ministry of Municipal Affairs if he would like to give the ministry's view.

Mr Hayes: The ministry does not object to this bill. However, we do have one question, and that's the amendment they're talking about to section 6. I'm just wondering why you want this committee to make that decision when you do have authority to do it yourself.

Ms Sproule Ward: Could I ask which section? Is it subsection 6(6) or section 6.1?

Mr Hayes: Subsection 6(1), where it reads:

"Despite section 26 of the Municipal Act, the council of a local municipality may by bylaw provide that, instead of the reeve and deputy reeve, it may be represented on county council by (a) the mayor and the reeve," and so on.

This bill already gives the council the authority to do that. What I'm saying is, does someone prefer to have this committee or Municipal Affairs make that decision for them?

Ms Sproule Ward: The corporation of the town of Orangeville has passed a resolution to that effect, and I've provided legislative counsel with a certified copy of that resolution. That's the town of Orangeville's wish, and the county of Dufferin does not object to that. If they wish to have it put in the bill, then we don't object to them asking for that amendment.

Mr Hayes: It's not a big deal for us, but I'm just wondering why you would want this committee to do it rather than allowing themselves. They already have the authority to do it themselves. I guess you can go back and say, "Well, the government did it." I don't know.

Mr Tilson: It's the usual spirit of cooperation in Dufferin county, Mr Hayes.

Mr Hayes: No, no. They already have the authority to do it, is what I'm saying.

Mr Tilson: I'm quite aware of that, but as you can see, both municipalities agreed to the amendment and I think that's what their position is.

Mr Perruzza: So moved.

The Chair: I'm glad that Mr Perruzza has uttered his support. Mr Moyle, did you have any additional comments to make?

Mr Moyle: No, I don't.

The Chair: Are there any other members who wish to raise questions at this point?

Mr Jordan: I was interested in how the figure of 2,500 was arrived at, in section 3.

Ms Sproule Ward: I believe that figure is similar to the Municipal Act.

The Chair: Any additional questions?

Mr Perruzza: We agree to the bill.

The Chair: We're not at that point yet, Mr Perruzza.

Are the members ready to vote? Agreed.

Shall sections 1 through 3 carry? Carried.

Mr Hansen: I move that subsection 4(3) of the bill be struck out and the following be substituted:

"Division of votes

"(3) If a local municipality has two representatives, the votes shall be split equally between them and if the number of the votes is an odd number, the mayor has the extra vote or if there is no mayor, the reeve has the extra vote."

The Chair: All members in favour of the amendment? Agreed.

Is everyone in favour of section 4, as amended? Agreed.

Shall section 5 carry? Carried.

Mr Hansen: I move that subsection 6(6) of the bill be amended by striking out "within a month of its passing" at the end.

The Chair: Shall that amendment carry? Carried.

Shall section 6, as amended, carry?

Mr Hansen: I move that the bill be amended by adding the following section:

"Town of Orangeville

"6.1 Despite section 6, beginning with the regular election held in 1997, the town of Orangeville shall be represented on county council by the mayor and the reeve."

The Chair: Are all members in favour of that amendment? Agreed.

Shall section 6, as amended, carry? Carried.

Shall section 7 through 9 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you to the town of Orangeville and the county of Dufferin.

Ms Sproule Ward: Thank you very much.

The Chair: The regular meeting of the standing committee on regulations and private bills is adjourned.

The committee adjourned at 1138.

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STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

- ***Chair / Président:** Haeck, Christel (St Catharines-Brock ND)
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- *Eddy, Ron (Brant-Haldimand L)
- *Fletcher, Derek (Guelph ND)
- *Hansen, Ron (Lincoln ND)
- *Hayes, Pat (Essex-Kent ND)
- Hodgson, Chris (Victoria-Haliburton PC)
- *Jordan, Leo (Lanark-Renfrew PC)
- Mills, Gordon (Durham East/-Est ND)
- O'Neil, Hugh P. (Quinte L)
- *Perruzza, Anthony (Downsview ND)
- Ruprecht, Tony (Parkdale L)
- **In attendance / présents*

Substitutions present / Membres remplaçants présents:

Daigeler, Hans (Nepean L) for Mr O'Neil
Hope, Randy R. (Chatham-Kent ND) for Mr Mills

Also taking part / Autres participants et participantes:

Ministry of Municipal Affairs:

Hayes, Pat, parliamentary assistant to the minister
Goojha, Krishna, economist

Ministry of the Attorney General:

Fox, Larry, counsel
Moore, Eric, director, charitable property division, office of the public trustee

Clerk / Greffière: Grannum, Tonia

Staff / Personnel:

Klein, Susan, legislative counsel
Mifsud, Lucinda, legislative counsel



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Wednesday 18 May 1994

Journal des débats (Hansard)

Mercredi 18 mai 1994

Standing committee on
regulations and private bills

Comité permanent des
règlements et des projets
de loi privés



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
REGULATIONS AND PRIVATE BILLS

Wednesday 18 May 1994

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS
ET DES PROJETS DE LOI PRIVÉS

Mercredi 18 mai 1994

The committee met at 1007 in committee room 1.
WORDZ PROCESSING CORPORATION LTD. ACT, 1994

Consideration of Bill Pr90, An Act to revive Wordz Processing Corporation Ltd.

The Chair (Ms Christel Haeck): Ladies and gentlemen, I call the meeting of the standing committee on regulations and private bills to order. Our first order of business is Bill Pr90, An Act to revive Wordz Processing Corporation Ltd. I would ask Mr Daigeler to join us with the applicants.

Mr Hans Daigeler (Nepean): In the absence of Mr Kwinter, I put forward Bill Pr90, and we have some presenters here who will introduce themselves.

Mr Michael Lipton: Good morning, ladies and gentlemen. My name is Michael Lipton, and I am a lawyer acting on behalf of the applicant. With me are Elliot Rand, one of my partners, and Mr Alain Harari, who is the principal of the applicant.

This is an application to revive Wordz Processing Corporation Ltd. As indicated in the material, it was incorporated in 1981 and regrettably it failed to file some returns and through inadvertence the position is that the company was ultimately dissolved in August 1985. The company has been active throughout, but it did not become aware until April 1993 of its unfortunate position. When that first was brought to Mr Harari's attention, he immediately took steps to bring forward this procedure. Unfortunately, more than five years have elapsed, so we find ourselves before you this morning.

We've made all the necessary filings, we are now completely up to date, and we understand there are no objections from the Ministry of Consumer and Commercial Relations. The company is still active, it is a database marketing company, it is very anxious to be able to resume its, shall we say, legitimacy. To that extent we are seeking your indulgence and we request respectfully that this matter be approved.

The Chair: I would ask if there are any other interested parties at this point who wish to come forward to speak to this bill. Seeing none, I would ask Mr Hayes if there are any comments from any concerned ministries.

Mr Pat Hayes (Essex-Kent): None of the ministries have any objections to this bill, and the Ministry of Municipal Affairs does not object to this bill.

The Chair: I would ask if there are any comments or questions from the members. Mr Hansen?

Mr Ron Hansen (Lincoln): It's a straightforward application, and there's no objection from the government members.

The Chair: By the looks of it, the members are ready to vote, but I will put the question. Are members ready to vote? All right.

Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Gentlemen, the deed is done. Thank you for your time.

HAMILTON AND REGION ARTS COUNCIL ACT, 1994

Consideration of Bill Pr96, An Act to revive The Hamilton and Region Arts Council.

The Chair: I call Bill Pr96, An Act to revive The Hamilton and Region Arts Council. Mr Abel, could you bring forward your applicant and introduce him, with whatever other comments you'd like to make at this time.

Mr Donald Abel (Wentworth North): It's a pleasure to be here to sponsor Bill Pr96, An Act to revive The Hamilton and Region Arts Council. I have with me today John Hammond, who is a solicitor with Inch, Easterbrook and Shaker, and he'd like to have the opportunity to give you an explanation of why this bill was brought forth.

Mr John Hammond: Madam Chair, I'm a solicitor with the law firm of Inch, Easterbrook and Shaker. We represent the applicants in this bill.

The bill addresses the dissolution of the corporate entity The Hamilton and Region Arts Council. The corporation was dissolved in 1987 under section 317 of the Ontario Corporations Act for failure to file information returns pursuant to the Corporations Information Act.

The Hamilton and Region Arts Council was incorporated for the purpose of performing charitable activities relating to the arts, and has carried out these purposes since February 1973. The organization is largely run by volunteers whose knowledge of corporate matters is slim. The non-filing was due to inadvertence, and it only became apparent in February of this year. Immediate steps were taken to rectify the situation.

The corporation has since made the requisite filings and we're unaware of any opposition to the bill. The bill is intended to revive the corporation so it may continue its good works, and I request on behalf of the applicant your approval in order that it may continue to do so.

The Chair: I have to ask if there are any interested parties who wish to come forward at this time to speak on this bill. Seeing none, I ask Mr Hayes if there are any comments from concerned ministries.

Mr Hayes: The Ministry of Municipal Affairs has no objections, and neither do any others that we're aware of.

The Chair: Do members have any questions at this time? Seeing none, are members ready to vote? Okay.

Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Mr Hammond, thank you very much for your time this morning. I hope it went as expeditiously as you expected.

Mr Hammond: Even more so.

CANNETO SOCIETY INC. ACT, 1993

Consideration of Bill Pr53, An Act to revive The Canneto Society Inc.

The Chair: Mr Mammoliti, if you would like to introduce your applicants, relating to Bill Pr53, An Act to revive The Canneto Society Inc.

Mr George Mammoliti (Yorkview): In front of us we have an organization that has existed for 15 years and was registered as a charitable organization in my riding of Yorkview and is now asking the committee to consider an application to become private and incorporated, if I'm not mistaken. I now introduce you to the lawyer who will take it from here. I give my solid support as the MPP for the area, and I'm hoping the committee will look at this and vote unanimously in favour.

Mr Francis Sutton: Madam Chair and committee, I'd like you to meet Mr Tony Malizia, who represents the Canneto Society. Our story is similar to the others you've heard. We were incorporated in 1977 as a non-profit charitable charity in a corporation form and existed for a number of years until I discovered that in September 1982 we were dissolved. They had been carrying on their activities and their community work all during the time. When we discovered it, we immediately applied and did the necessary things, filed and advertised, and we're now asking if we could be revived.

In the revival, it turns out that when the original incorporation was done, they were shown as a non-profit charitable organization and they should have been shown as a non-profit not-charitable organization. Since the Corporations Act doesn't allow for that change, I believe that the Legislature has that power and we're asking at this time for that to be approved.

The Chair: I advise members of the committee that the clerk has passed around several amendments which we will read into the record as we go through the voting process. I would ask at this time if there are any other interested parties who wish to come forward to speak to this bill. Seeing none, I would ask Mr Hayes if there are any comments on behalf of any concerned ministries.

Mr Hayes: It doesn't affect the Ministry of Municipal Affairs; we don't have any comments on it. However, Eric Moore from the public trustee would like to make some comments and get some clarification and possibly give us some information on the amendments that are coming forward, or clarification.

Mr Eric Moore: The public trustee is interested in

this bill by reason of her role in relation to charitable property. This organization was chartered as an incorporated charity and, as a matter of law, all of its property is charitable and therefore of interest to the public trustee.

As a point of clarification, it had been my understanding that this organization was not registered at any time with the Department of National Revenue for income tax purposes as a charity and I request clarification from the applicants on that.

Mr Sutton: They have never been registered with the income tax department and never have used that process.
1020

Mr Moore: Then I'd like to advise the committee that the bill as originally drafted would have revived them as a charity. Our concern was the fact that it appeared to us on examination that they had never operated as a charity, were not using their property as a charity and probably had never been intended to be a charity; they had been incorporated in the wrong form.

I understand there are several amendments that have been put forward to the committee to address those problems, specifically an amendment to the preamble to clarify that the objects were not exclusively charitable and an amendment to the bill adding to a new section to detail what the objects on incorporation were deemed to be. Those objects are not exclusively charitable.

One of the problems with the Corporations Act is that it doesn't address the problem of charitable property. It appears only the Legislature has the authority at this time to do the amendments required in order to bring this organization into non-charitable form.

The public trustee would object to the revival without the amendments, but would have no objection with the amendments.

The Chair: Do the members have any questions?

Mr Daigeler: Are the amendments satisfactory?

Mr Sutton: Yes, they are.

The Chair: The members are ready to vote? Fine.

Shall section 1 carry?

Mr Gordon Mills (Durham East): I move that the bill be amended by adding the following subsection:

"Objects

"1.1 Despite anything to the contrary in its letters patent, The Canneto Society Inc shall be deemed to have been incorporated with fraternal objects, such objects being to support the community of immigrants from Canneto, Italy and their descendants and to represent that community in social, religious and charitable matters."

The Chair: Does that section carry? Carried.

Shall sections 2 and 3 carry? Carried.

Mr Mills, relating to the preamble, shall it carry?

Mr Mills: No; I have an amendment, Madam Chair. I move that the preamble of the bill be amended by adding at the end of the second line "and to clarify that the objects of the corporation are fraternal and not exclusively charitable."

The Chair: Shall the preamble, as amended, carry? Carried.

Shall the title carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Agreed.

Gentlemen, I'd like to thank you for your time. I hope you're pleased with the process.

Mr Mammoliti: You've all been as wonderful as usual.

INSTITUTE FOR ADVANCED
TALMUDIC STUDY ACT, 1994

Consideration of Bill Pr92, An Act to revive Institute for Advanced Talmudic Study.

The Chair: Our next order of business is Bill Pr92, An Act to revive Institute for Advanced Talmudic Study. I would ask Mr Harnick and the applicants to please come forward. Good morning, Mr Harnick. You've been before us before; you're aware of the procedure?

Mr Charles Harnick (Willowdale): Yes. The application really is to revive the charter of the corporation. I have counsel here, as well as Rabbi Hirschmann, and they are the best people to deal with the questions you might have. They can make the submissions so that you can understand exactly what the situation is.

Mr Stephen Schwartz: Good morning, Madam Chairman and members of the committee. My name is Stephen Schwartz. With me are Martin Myerowitz and Rabbi Hirschmann.

This is an application for revival of the institute. It was incorporated a number of years ago and in January 1987 it was dissolved. The dissolution came about by inadvertence. We are here today to reinstate the charter and the draft bill is before you. We are looking to restore the corporation to its legal position in order that it be able to continue with its charitable work.

The Chair: Are there any other comments from the applicants at this time? Seeing none, because of the availability of microphones, I'm going to have to ask you to vacate those chairs and I would ask the interested parties, Mr MacLellan and Mr Frapporti, to come forward, please.

Mr Louis Frapporti: My name is Mr Frapporti, and this is Mr MacLellan. We're here on behalf of the administrator of Olympia and York Developments Ltd, which is Coopers and Lybrand OYDL Inc, and we have some submissions to make in respect of the request.

The Chair: Just to advise members, I believe you have a letter before you from Coopers and Lybrand. Mr Frapporti, if you'd like to continue.

Mr Frapporti: Just a bit of background with respect to our involvement here: In May 1992, Olympia and York Developments Ltd declared itself insolvent and sought court protection. Creditors approved a plan of compromise, an arrangement under the CCAA, and that plan was sanctioned by the court in February 1993. The duty of the administrator, and our involvement here today on behalf of the administrator, is to protect the interests of the unsecured and undersecured creditors of OYDL.

In April 1992, properties that were on the books of Olympia and York Developments Ltd were transferred to

the institute. These transfers were subsequently registered and these registrations and transfers were well after the dissolution of the company.

The administrator, on behalf of Olympia and York Developments Ltd, commenced an action in June 1993 to set aside those transfers and, as the basis for that request, we applied under various statutes: the bankruptcy and insolvency act, the Business Corporations Act and the Assignments and Preferences Act. This was done in order to protect the position of the administrator and to protect assets which might otherwise be available to the unsecured creditors of Olympia and York.

We do not propose here to get into the merits of the action. We merely ask that we be able to bring to the committee's attention the fact that the revival of the corporation on the terms proposed in the act in so far as they may give retroactive effect to these transfers may substantially prejudice the interest of the unsecured and undersecured creditors of Olympia and York Developments Ltd.

These matters will be brought to the court's attention. Proceedings are ongoing and, as a function of the commencement of our claim, the administrator brought a motion to the court seeking to have a certificate of pending litigation placed on the property, which in essence freezes the property and prevents its disposition or conveyance, to maintain the status quo until the matter can be heard and fully adjudicated by the courts. We're merely asking that the same be brought to the committee's attention today.

We have suggested an amendment to the bill which addresses our concern as to the effect that a revival of the corporation may have, and we would ask that you give that due consideration.

1030

The Chair: Thank you, Mr Frapporti. I would also advise members that we have a letter with some appendices from the Attorney General's office, which I hope you've taken some time to review, and I would at this point ask again if there are any other interested parties who wish to come forward. Seeing none, I would then turn to Mr Hayes for comments relating to various ministries.

Mr Hayes: The Ministry of Municipal Affairs does not have any comments on this bill. However, the public trustee does have some serious concerns and I'd like Mr Eric Moore to address those concerns.

Mr Moore: The public trustee is also interested in this bill by reason of her role in connection with charitable property. As the applicants have indicated, this organization was incorporated as a charity and by law all of its property is charitable.

This matter of revival first arose for the government by correspondence dated March 10, 1987, from the firm of Lorenzetti Wolfe, who are currently representing the applicants in this matter. That correspondence requested the public trustee's consent to a revival of the organization.

The review conducted by our office at that time disclosed certain concerns and questions regarding how

the organization was accounting for its finances and its use of its property, and by correspondence dated March 25, 1987, we advised that in the circumstances of those questions at that time we would not consent to a revival.

I was subsequently contacted by telephone by Mr Philip Alter, also with the firm of Lorenzetti Wolfe, and that was on December 13, 1987. Mr Alter is also a director of the corporation in question. After a detailed review of what was required to be provided on our concerns, at that time Mr Alter requested that we waive compliance with any legal requirements in order to allow the organization to be revived by order of the director under the Corporations Act. Mr Alter declined my invitation to make written submissions directly, if he so wished, and I did suggest to Mr Alter that he provide us with whatever documentations and information he could obtain and that if the issues outstanding at that time appeared to be technical rather than substantive, we would consider waiving any further compliance. Mr Alter had indicated he was having serious difficulty obtaining documentation and information that was required from his clients.

Nothing further was heard on this matter, and in particular no documentation and information was provided, although that is required under the Charities Accounting Act, until this matter was raised by way of a private bill for revival. We subsequently advised the applicants' solicitors that there was a substantial amount of outstanding documentation and information that had not been filed: eight years' worth of financial statements, eight years' worth of information regarding names and addresses of directors.

We have subsequently reviewed that documentation and we have advised the applicants' solicitors in a five-page letter of our concerns about how their financial statements apparently fail to demonstrate that they are acting as a charitable organization. We have received no reply. The correspondence was sent to the applicants' solicitors only on May 11, and I apologize that our response was not sent to them earlier; however, we did have to review eight years of financial statements.

I should also advise, since I have received in this morning's mail a copy of the organization's filings with the Department of National Revenue, that those filings do not seem to correspond to the financial statements provided to our office.

Accordingly, the public trustee would strenuously object to the revival of this organization until the substantive matters regarding how it is operating as a charity are addressed.

With respect to the motion for amendment that has been put forward by the receiver for Olympia and York, we would have to object to that motion. It appears to us that that motion is attempting to obtain the benefit of dissolution of the corporate status in proceedings that are before the court, and that is exactly the purpose of the revival bill that is before this committee: to remove that defect.

I should also advise the committee that the public trustee was required by subsection 5(4) of the Charities Accounting Act to be served with the proceedings that

are referred to in the correspondence that has been provided to you. I'm not aware of the status of those proceedings or what allegations are made there. I'm therefore unable to comment as to how the motion would relate to those proceedings in the courts.

The Chair: Mr Mills would like to place questions.

Mr Harnick: Excuse me, Madam Chair. Mr Mills, if I may for just a moment—

The Chair: Mr Harnick, we'll definitely get to the applicants again. That's not a problem.

Mr Harnick: I'm just saying it may help to further the questions if you heard the applicant first, that's all.

The Chair: Just let me deal with Mr Mills first. He indicated he wished to speak before anyone else did.

Mr Mills: My comments are not questions; they're observations. I've read both letters, the five-page letter to the applicant, and it's my understanding that it's not appropriate to revive this company at this time, so I will be voting accordingly.

The Chair: I would now turn to the applicants.

Mr Schwartz: Addressing the issues that have been raised, the office of the public trustee has requested information pertaining to the charity. The information that has been requested some time ago has not been provided; no action has ever been taken by the office of the public trustee to force compliance, no court proceedings have ever been taken, and it's our position that it's in the interest of the public trustee that the corporation be revived in order that it has a corporation that is able to fulfil these requests.

We have, prior to this meeting, confirmed with the charity's accountants that the information requested in the letter of May 11 can be provided. It has to be assembled and it will take a period of time, but it can be put together for the trustee.

With respect to the objection raised by my friend sitting next to me, the bill is clear on its face that the revival of the corporation is not to affect any legal matters that are existing between the administrator for Olympia and York and the institute. You will note in the facts presented to you in the letter of May 17 that the Companies' Creditors Arrangement Act plan was approved in February 1993. The transactions which are now attempting to be set aside are transactions that arose a year before that, in April, 1992.

We are not trying to, nor does the bill purport to, affect any rights that exist between O and Y's administrators and the charity. If there are rights yesterday, they will be the same as the rights that exist tomorrow. The revival does not take away or add to any of the parties' rights.

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The bill is clear in its statement that it's subject to any rights acquired by any person. We are not trying to take away or add. It's subject to. The bill is clear on its face. So the objection that we are trying to defeat or hinder any outstanding litigation is not true at all. The bill says that it isn't.

The Chair: Thank you, Mr Schwartz. We have

several people who wish to ask questions or to make comment. I have on my list Mr Daigeler, then Mr Moore and then Mr Ruprecht.

Mr Daigeler: Could you clarify for me what is the effect if this application is turned down, and, secondly, are there precedents to postpone or put on hold these bills until some of the questions can be clarified and the matter be brought back to the committee?

The Chair: Yes. In fact there are precedents and we have turned motions down and the applicants, if they wish to proceed, are then able to satisfy the concerns raised by the committee, if they wish to then bring the matter forward again.

If I may refresh members' minds, we had the issue of Glanbrook township not so long ago, which definitely left a range of concerns within members' minds. That particular motion was not accepted and the applicant then attempted to satisfy the concerns that the members and ministries in question raised. That is an option that members have, if they wish to follow it.

Does that answer your question, Mr Daigeler?

Mr Daigeler: Yes. That addressed the question that you can vote it down and then it can be brought back.

The Chair: That's correct.

Mr Daigeler: Is there also something if it were stayed rather than voting on the matter? I mean, it's up to the presenters as well, of course, as to what they wish to do.

The Chair: I'm sorry. I stand corrected. It is a deferral, not a voting down. That would be a motion that one of the members would have to bring for a deferral. The instance I recall of Glanbrook is that it was deferred rather than—that's my mistake. We did allow for some time to elapse between their first time forward and then their satisfying the concerns of the members.

Mr Moore: If I could address the member's question about the effect of non-revival generally, at the moment all property of the organization is vested in the public trustee as a matter of law. The directors have for a number of years been dealing with it, notwithstanding their knowledge that the organization was dissolved and that it had no corporate status. The legal title to the assets belongs to the public trustee at the moment.

Mr Tony Ruprecht (Parkdale): I've got a question to the parliamentary assistant, Mr Hayes, or to the representative of the public trustee, one of the two.

The Chair: If you'd like to pose your question to Mr Hayes, and then it will be forwarded.

Mr Ruprecht: Yes, we'll see who wants to answer it.

Does the revival of the Institute for Advanced Talmudic Study affect the rights of the objector?

Mr Hayes: I'll refer that to Mr Moore.

Mr Moore: I'm going to refer that to Ms Levine of companies branch.

Mr Ruprecht: Ms Levine, excuse me, but if it does, in what way does it affect the rights of the objector?

Ms Katherine Levine: My name is Katherine Levine. I'm a lawyer at the Ministry of Consumer and Commercial Relations. I think the legislation in the bill is quite

clear. As Mr Schwartz has stated, revival is subject to the rights of individuals or rights that have been acquired after the dissolution and prior to the revival, but the actual effect of retroactivity is not clear, and I think that the courts have not quite completely decided on the effect. Sorry, I don't know. I'm not feeling well at this moment.

What I can comment on, I suppose, is what we would do if this application had been processed pursuant to the Corporations Act and we had received a complaint of this nature at that time. We probably, presupposing we have the consent of the public trustee, would proceed with the revival because we would consider, if we did not, that we would be getting into the legislative fray. I don't know if that clarifies it.

Mr Ruprecht: It does somewhat, but, Madam Chair, are we going to be able to hear from Mr Harnick later? I hope he's going to say a few words.

The Chair: We have a couple of other questioners, and if he wishes to speak, we can always turn the microphone on. But I have two people before who have indicated they want to ask some questions, that is, Mr Perruzza and Mr Hodgson.

Mr Ruprecht: Fine. Then put me back on the list again.

Mr Anthony Perruzza (Downsview): Essentially my question is, before we get into convoluted legal issues, to the parliamentary assistant. I'd like to know from him what the ministry's concerns are with this.

Mr Hayes: You missed it, Tony; you weren't here.

Mr Perruzza: Positions change through the course of the day. I'd like to know what Mr Hayes thinks.

Mr Hayes: As I indicated earlier, this does not affect the Ministry of Municipal Affairs, and we do not have any comments. That's why we have people here from Consumer and Commercial Relations and from the public trustee, because their ministries do have concerns with this bill.

Mr Perruzza: I don't know what the other questions are going to be, but if nobody else is prepared to do this, I would be prepared, at the end of this, to move that we stand this down and refer it to the public trustee and see if they can't come to some kind of accommodation before we make a decision on this one way or the other.

Mr Chris Hodgson (Victoria-Haliburton): I have a question for the public trustee. Even if this is reincorporated in full status, does the property still belong to the public trustee until the court case is settled, until the trial is completed?

Mr Moore: No, the legal title to this property is vested in the public trustee by operation of the Corporations Act and the Escheats Act, and upon revival the corporation would be re-vested with all of its property, legal title to it.

Mr Hodgson: Even though there's a court case on with the dispute?

Mr Moore: The court case hasn't yet been decided.

The Chair: Mr Harnick, you wanted to make a couple of remarks.

Mr Harnick: Before I do that, Rabbi Hirschmann would like to make some comments as well, and it's really his corporation that is seeking this indulgence. So I would just ask the rabbi.

Rabbi Jacob Hirschmann: Thank you for the opportunity. I just want to clarify the situation a little bit because Mr Moore in doing his job, and he's doing it well, but there's a certain picture that you get that might be misinterpreted. I just want to correct that.

We've been in Toronto 24 years. During this time we've been well known within the Orthodox community. It's an educational institution, and that's where the charitable nature is not self-evident in the financial statements, because most of it goes to pay for scholarships for education. It's an educational institution, a rabbinical school and an outreach program within the community. We've had write-ups in the papers. I don't think the legitimacy of the institution per se is the question at all.

1050

As to the problem with the particular last request from the public trustee, we were in contact with our accountants. It's no problem at all to give all that information. The problem here was we had a religious holiday on Monday and Tuesday, where the Orthodox Jews, which our lawyers and accountants are, were not in the office. It was sent in on Friday. In fact I only found out about it this morning, when I checked with Philip Alter from Lorenzetti Wolfe. So there is no problem whatsoever with meeting all these requirements.

I just want to add that, though it may sound strange, the fact that this information wasn't forthcoming was not on malicious part of any of the directors of the institute, but rather the sort of problem that sometimes comes up, that crops up in charitable institutions where things that are supposed to get taken care of and are important don't get taken care of, rather by default than anybody purposefully trying to not pass on information.

The buildings in question, except for the institute itself, are buildings where the scholars live. They're dormitories for married couples. The legitimacy of this was recognized by the government of Ontario because it took the realty tax off those buildings. It's actually a small university, a small educational institution that's viable and functioning. It's rather a technical question, though. The ramifications of that are such that it's a technical question, not a question of the institution itself. It's a functioning, viable institution, and Mr Harnick himself has been there.

Actually, it functions 365 days a year, from 6 am till 12 pm, with the various groups of people studying and coming there and people going there to teach in the community. I just wanted to straighten that out so that you get the picture that there is a very viable, operating institution that's a benefit to the community, and there's a technical problem over here which has to be straightened out.

The Chair: Thank you, Mr Hirschmann. I would ask Mr Mills, and then Mr Daigeler.

Mr Mills: Having given this issue some thought, I

would humbly suggest that we should defer as a committee until the applicant has the consent of the public trustee in this matter. That way we will be able to meet the pressures that are on us here. I think that should be the line we should take: to defer it and let the applicant meet with the public trustee, hopefully work something out, come back here and revisit this revival again. So I would move that.

Mr Daigeler: Madam Chair.

The Chair: Just a moment, I have a procedural question. Is this a motion that you are putting forward?

Mr Mills: That's a motion, yes.

The Chair: All right, so we have a motion before us. Would someone like to speak to that motion?

Mrs Ellen MacKinnon (Lambton): Will this motion satisfy the trustee and Consumer and Commercial Relations?

Mr Daigeler: Madam Chair, I was the next speaker.

The Chair: Yes, just one quick moment.

Mr Hayes: She wants clarification; that's what she wants. Let her get her clarification.

Mr Daigeler: My question was relating to the motion. I would like to hear from the applicants whether a deferral would cause serious problems to the applicant.

Mr Schwartz: It's the applicant's position that the information that has been requested by the trustee can be provided. I don't believe that there is need or reason to defer the application. We can provide the undertaking on behalf of the applicant to provide such information. It's financial information that's within the scope of the accountants of the institute, who have confirmed to us that the information can be provided.

The charity is here to revive the corporation so it can continue its charitable purposes in compliance with existing legislation. The charity will comply and will provide to the public trustee the financial information it has requested.

Mr Moore: I'd just like to remind the committee that the information, the concerns we raised, were raised seven years ago with Mr Philip Alter, a member of the firm of lawyers who are representing the applicants in this matter, and who also was at that time and still is, according to the information provided to us, a director of this corporation.

It's been suggested that the public trustee somehow has been remiss in not taking this organization to court in order to obtain compliance. The Charities Accounting Act, section 2, specifically requires that documentation and information be provided, and it has not, after at least one request made seven years ago.

The public trustee's interest is not with respect to the applicant's counsel in having this organization incorporated so it can carry out its charitable work; it is to have the property applied to charitable purposes. That is the very issue in question in our submissions, the concerns we've raised to the applicants. It's the matter that we've asked them to demonstrate and, as a matter of law, it is their responsibility to do so. These are not purely technical issues; they are substantive.

I just point out to the committee that the applicants are coming before the committee asking for its indulgence, and on the material that has been provided, I submit that they have not complied with some very basic legal requirements for charitable organizations in this province. Deferral may provide an avenue for resolving these problems, and the public trustee would certainly not object to deferral.

The Chair: Mrs MacKinnon, you had raised a point of clarification, I believe, of Ms Levine, if you'd like to place your question again.

Mrs MacKinnon: My question basically was whether the motion that was made by my colleague was acceptable with the public trustee and/or Consumer and Commercial Relations.

The Chair: I believe the trustee's office has already answered that, but Ms Levine.

Ms Levine: We have no objection to a deferral.

Mrs MacKinnon: That's basically what I'm asking, yes.

Mr Harnick: I just want to say a couple of things. If a deferral is the way that you think this should be handled, that's fine. I think the reality of this issue is that as between the public trustee and the public trustee's concerns and the applicant, those concerns can be met whether the company is revived or not. In fact, if the company is revived, the public trustee now has an entity to force to make the compliance that's necessary.

As this situation now stands, there is no entity that exists at law that can answer the questions that the public trustee has. If you create that entity, the public trustee now has the opportunity to seek compliance from the entity on a voluntary basis, and you've heard that on a voluntary basis the entity will comply and, if they don't comply, the public trustee will take the entity to court, as it is entitled to do, to force compliance and to force the entity to pay the legal costs that will be incurred.

Today the public trustee can't do that because there is no entity that the public trustee can chase. By reviving the company, you're really permitting an entity to exist that the public trustee can deal with, as opposed to individuals who may or may not be personally responsible. That's the first thing.

As I see it, the real issue before this committee is the issue between the administrator and the company that wants to be revived. You've heard from Consumer and Commercial Relations, Ms Levine, and she has indicated, if I'm correct, I believe what she said is that, if this application was coming before the ministry on a first-time basis for incorporation, it would be granted. That's the impression I had, for what that's worth.

1100

But the real issue, when you look at this act, is to make a determination as to whether the revival of the corporation will impact on the lawsuit that presently exists. You've heard from Mr Schwartz, who has said that the revival will not impact on that lawsuit. That lawsuit will still be decided based upon whether the Olympia and York Co, back in 1992, had the right to convey that property to anyone, regardless of whether it's

this entity or another entity. They may have conveyed that property to Anthony Perruzza back in 1992.

Mr Perruzza: Not likely.

Mr Harnick: I just say that because he's a nice guy. But at any rate that lawsuit deals with what right Olympia and York, as it existed in April 1992, had to convey the property to this entity or any other entity. That's what Mr Schwartz has told you.

If you want to defer it, I suppose it's complicated, it's convoluted, it's difficult, but it's going to come back and it's ultimately going to be something you're going to have to decide upon. What I say to you is, it will not impact on the lawsuit and the determination as to the validity to convey the property to start with. In fact the act says quite specifically that it is not retroactive to affect those kinds of rights.

In terms of the public trustee, I put it to everyone here that it is simply an issue that can be dealt with and will be dealt with with the public trustee. It's probably easier having an entity to deal with it than it would be continuing to linger with no one really having responsibility to deal with the public trustee, based on the status of the company now. You're in effect going, I believe, to help the public trustee, who now is going to have an entity to deal with.

The Chair: Thank you, Mr Harnick. Both Mr Moore and Ms Levine would like to respond to some of the comments that have been made.

Mr Hansen: We have a motion.

The Chair: I will turn to the motion immediately after these clarifications.

Mr Frapporti: May I be given an opportunity to respond to some of these issues before the motion is voted upon?

Mr Perruzza: Can we do that first and then have a wrap-up there?

The Chair: Are members in favour of Mr Frapporti having a couple of comments? Thank you. Mr Frapporti, if you'd continue, and then Mr Moore and then Ms Levine.

Mr Frapporti: I'll attempt to be quite brief. With all due respect to Mr Schwartz's opinion and the opinion of Ms Levine, and this speaks of course to the questions that were asked by Mr Daigeler and Mr Hodgson, this particular act and the effect of the revivification of the company is anything but clear.

If I could draw the committee's attention to some of the problems that can arise in this kind of exercise, mention has been made of the provisions in the act which state that the revival of the company is subject to rights acquired by any person after its dissolution. The administrator and Olympia and York did not acquire any rights, they lost rights, so on that point alone it's quite clear that this is, if anything, ambiguous.

Secondly, it deals with property contracts, liabilities and so forth at the date of dissolution. The property was conveyed after dissolution. What effect does that have? I don't know. You can rest assured that if Mr Schwartz is going to be arguing this in court, with all due respect,

I think he'll take the opposite opinion that he has taken today and he'll say that in fact the transfer of the property was a valid exercise. I ask that the committee keep that foremost in its mind.

Thirdly, with respect to Mr Harnick's concerns about the trustee having an entity to sue, I can only add that we have sued a non-existent corporation and they have responded to that suit by filing statements of defence. We have had no difficulty in getting an immediate response. That is the extent of my comments.

The Chair: Thank you, Mr Frapporti. It should be noted for everyone's edification that these comments form a public record, so if anyone wishes to consult them, the Hansard will be published in due time for all of your interests.

First Mr Moore and then Ms Levine.

Mr Moore: I'd like to respond to the suggestion made by Mr Harnick that, in his view, all of this legislation, this bill that's being put before the committee, was helpful to the public trustee. The public trustee doesn't share that view.

There's no difficulty with an entity here; there are legal persons called individuals who have in fact been dealing with the charity's property, although without corporate authority, and those persons are responsible in law and equity for the property they have been dealing with. Those persons have a very real personal interest in getting this corporation revived and, in the course of doing that, addressing the issues of how they have been dealing with the charity's property.

This is not a suggestion of impropriety or any criminal activity; it is the fact that these individuals are responsible for demonstrating how they are applying the property to the charitable purposes, and that demonstration has been wanting after repeated requests.

I've also noted the sponsor's suggestion that the public trustee should take the organization to court if it doesn't respond. This committee is a committee of the high court of Parliament, and this is in essence a court here. I suggest that the idea that the revival should be allowed to go through and then if, as has happened in the past, the material is not provided, the documentation and information required in order to demonstrate how this organization has been properly operating is not provided, the public trustee should institute court proceedings—with respect, I suggest that's a serious waste of public time and money. This is a matter that can be dealt with before it comes to the committee.

Mr Harnick: You'll get your costs.

The Chair: Mr Harnick, please, do try to keep some order here.

Ms Levine: What I meant to say was that there is a period of time, as you're aware, when applications can come before the ministry and the corporation can be revived administratively. There are certain statutory preconditions, one of them being the consent of the public trustee. The issue of retroactivity has arisen in the past and what that's subject to, the rights and so forth.

Our position has always been not that this ambiguity may or may not exist, but that it's an ambiguity that the

courts have to decide. If we refuse to revive statutorily when all the preconditions are met, then in effect we're stepping into the fray and we're adjudicating rights when we don't have all the facts before us. Of course, the Legislature isn't subject to the same restrictions that we're subject to, but I was just explaining our position that we take administratively.

The Chair: Mr Harnick, I think at this point the motion has been put. The motion is to defer until the public trustee has been satisfied about all of the concerns.

Mr Daigeler: I think the motion's simply to defer.

Mr Mills: No, no, to defer until the public trustee has been satisfied in all the aspects that he's raised so that then we can be brought back—

Mr Perruzza: Hang on a second. Can I have a clarification, because this changes the—

The Chair: Just one moment, please. One at a time, please. Mr Daigeler first.

Mr Daigeler: I would prefer if the motion simply reads that the matter be deferred.

The Chair: If I may, the record shows that in fact what Mr Mills put before us as a motion was that it is a deferral until the concerns of the public trustee have been addressed. That is on our record here and the clerk has maintained that record and has substantiated the remarks of Mr Mills.

Mr Perruzza, does that satisfy your question of clarification?

Mr Perruzza: Madam Chair, can you maybe shed some light on this? Does that mean that the matter is just simply referred to the trustee's office until the trustee determines that all of his concerns have been met and then that can't come back to us until that's happened, or at some point will this matter be brought before this committee whether the trustee feels that all of the concerns have been met or not? I'd be more inclined to support the latter and at some point to make a determination.

The reason I suggested this earlier on is so that they can work out some of their wranglings that, quite frankly, I don't think we have the time or the broad range of information to be able to assess here at this committee in any substantive way. That's why I suggested it earlier, and I think the trustee is inclined to agree with that.

Mr Mills: Might I suggest that we vote on the motion as put and then, if that is not successful, perhaps Mr Perruzza would like to introduce another amendment or another motion.

The Chair: I concur with Mr Mills. The motion before us at this point is that the application, Bill Pr92, be deferred until the concerns of the public trustee have been met. If the members are prepared to vote, you know the motion.

Those in favour? Those against? I vote in favour of the motion, so it is deferred.

I move that the standing committee on regulations and private bills be adjourned. I thank all of the applicants.

The committee adjourned at 1112.

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- *Ruprecht, Tony (Parkdale L)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Daigeler, Hans (Nepean L) for Mr Eddy

Also taking part / Autres participants et participantes:

Hayes, Pat, parliamentary assistant to Minister of Municipal Affairs

Levine, Katherine, counsel, Ministry of Consumer and Commercial Relations

Moore, Eric, director, charitable property division, office of the public trustee, Ministry of the Attorney General

Clerk / Greffière: Grannum, Tonia

Staff / Personnel:

Mifsud, Lucinda, legislative counsel

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Standing committee on
regulations and private bills

Comité permanent des
règlements et des projets
de loi privés



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
REGULATIONS AND PRIVATE BILLS

Wednesday 1 June 1994

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS
ET DES PROJETS DE LOI PRIVÉS

Mercredi 1 juin 1994

The committee met at 1004 in committee room 1.
CITY OF TORONTO ACT, 1993

Consideration of Bill Pr43, An Act respecting the City of Toronto.

The Chair (Ms Christel Haeck): Ladies and gentlemen, I call the meeting of the standing committee on regulations and private bills to order. I'd like to deviate slightly from the agenda and call Bill Pr43, An Act respecting the City of Toronto. I ask the sponsor, Rosario Marchese, to come forward.

Mr Drummond White (Durham Centre): In the absence of Mr Marchese, perhaps someone else could sponsor the bill.

The Chair: Ms Akande, perhaps you could. Oh, Mr Fletcher? Fine.

Ms Zanana L. Akande (St Andrew-St Patrick): You thought I was closer to Toronto.

The Chair: Well, there is a close relationship between Guelph and Toronto. It's called a GO line, I guess. Would Mr Fletcher please introduce our guests and turn it over to them.

Mr Derek Fletcher (Guelph): Thank you, Chair. On behalf of Mr Marchese, I would like to introduce Mr Dennis Perlin and Bill Pr43, An Act respecting the City of Toronto.

The Chair: Good morning, Mr Perlin. We haven't seen you for a few months.

Mr Dennis Perlin: Good morning, Madam Chair. Glad to be back.

Madam Chair and members of the committee, I had a discussion with Mr White, the parliamentary assistant to the Minister of Municipal Affairs. There has recently been an opportunity presented by the Ministry of Transport, which was not supportive of the bill with respect to the reduction of the speed limit, to perhaps work out amendments to the bill that will allow support from that ministry, and perhaps also to work out certain objections we have received from Metro.

The request, therefore, to the committee at this point is, would the committee entertain a two-week deferral to allow those discussions to be undertaken to see if amendments could be made to the bill that is before you, in the hope that objections could be worked out, at least from the various ministries, and then, subject to your due consideration of it as to whether it is appropriate or not to pass, to come back.

Mr White: Yes, I'll—

The Chair: I'm the Chair. He's just trying to jump in,

a former Chair who has to be kept in line. In any case, the procedure would normally be to open it up for questions and comments, so at this point I will recognize Mr White and ask if there are other questions from the members.

Mr White: Thank you very much, Chair. I'd like to move deferral of Bill Pr43, with the understanding that it should be brought back before the end of this session, most likely in two weeks' time.

The Chair: Would members like to speak to that motion?

Mr Hugh O'Neil (Quinte): Madam Chairman, we have no objections to that whatsoever.

Mr Chris Hodgson (Victoria-Haliburton): No objections.

Mr Ron Hansen (Lincoln): No objections.

The Chair: Are all members prepared to vote on that motion? Agreed? Agreed.

COUNTY OF BRUCE ACT, 1993

Consideration of Bill Pr115, An Act respecting the County of Bruce.

The Chair: Mr Elston, my apologies. I didn't recognize you sitting there.

Mr Murray J. Elston (Bruce): Is that good or bad?

The Chair: It must be the new tie. In any case, I ask you to call your applicants forward and introduce them to the members, with any opening comments you'd like to make.

Mr Elston: Actually, I'd just like to introduce the warden of the county, Milton McIver, and the reeve of Amabel, Bill Ferris, who will make some remarks concerning the bill. This is not dissimilar from my colleague from Victoria-Haliburton's bill. There are lots of county governments now going through the issue of representation, trying to make some changes that will more fairly reflect the population and voting patterns. If Mr McIver wants to begin, we might start there, and then Mr Ferris can follow up with some comments as well.

Mr Milton McIver: Thank you, Madam Chair and members. As Murray has indicated, the county of Bruce is looking at the private bill it has submitted. We were hoping to see some of our inequities addressed with regard to our voting system in Bruce county. The county actually, about three years ago, did complete a restructuring report, and although we didn't choose the amalgamation aspect of it, we were trying to come up with some more equitable way of representation by population. I would just like to read a brief we have here now.

I would like to thank you for providing us with the opportunity of appearing before you in support of private Bill Pr115, An Act respecting the County of Bruce. While I am aware that background information has been provided, I would like to very briefly outline some of the present concerns county council has identified in the current voting system and how the proposed system will address these concerns.

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Over the last 140 years, serious representation inequities have developed within Bruce county. All municipalities in the county, regardless of their status or size, have one representative on county council. County council has attempted to deal with this situation by introducing a weighted voting system whereby representatives of larger municipalities are able to exercise additional voting power at county council.

Even this multiple voting system falls significantly short of the accepted democratic principle of representation by population. Under the current system, each member of council is entitled to one additional vote for every 1,000 electors, up to a maximum of four votes. Therefore, every municipality that is in excess of 3,000 electors does not realize a vote for that portion of electors over the 3,000.

While reviewing the voting system, council has considered the principles of county composition related to votes, as outlined in the Ministry of Municipal Affairs document entitled *Toward an Ideal County*.

"(1) All local municipalities on county council should be represented." Of course in Bruce we are all represented on county council.

"(2) Representation on county councils should be based on the principle of representation by population, with a variation rate of 25% of the average number of electors per representative deemed acceptable. A larger variation may be inevitable in some situations, but should be recognized as a weakness in equitable representation."

Under the current voting system, the number of electors per vote ranges from 400 to 1,900. The system proposed truly reflects representation by population.

"(3) Notwithstanding principle 2, no one municipality should have a majority of representation on county council."

No one municipality would have the majority of representation on county council. The largest councillor vote, of 15, represents less than 11% of the total number of votes.

In 1973, Bruce county was one of the first counties in the province to proceed with special legislation to reduce the number of members of council and to implement a weighted voting system. We would appreciate the support of the Legislature in allowing us to proceed with this required updating of our system.

That completes my presentation. We would like you to look favourably upon our request. With that, I'll pass to my colleague.

The Chair: Mr Ferris, I believe you're considered one of the interested parties in this. Is Mr Stock with you? Does he wish to say something?

Mr Pat Stock: Mr Ferris will speak on my behalf.

The Chair: Okay. Are there any other interested parties who wish to speak on this issue? Seeing none, Mr Ferris, please continue.

Mr Bill Ferris: Amabel township, being the largest municipality in the county of Bruce, has been long seriously concerned about the inequities of the voting system in the county government in Bruce county. Over the 20 years or so I've been on council, this is about the third time we've attempted to correct this situation through various studies and organizations. It always seem to be left in limbo, and a lot of money and time has gone down the drain. Once again, we're here at Queen's Park to attempt to correct this situation. I'll just read our presentation, if you'll bear with me.

The county of Bruce completed a restructuring report in 1992. In essence, the reduction of the county from 31 municipalities to eight municipalities was turned down by the members of county council. The township of Amabel supported the reduction to eight municipalities, but there was obviously nothing further we could do in that regard.

In the restructuring report process, it was acknowledged that the voting authority on county council in its current form is substantially outdated and reflects neither representation factors nor financial commitments to the operation of the county of Bruce. We are here today to support the private bill, which is endorsed by Bruce county council.

If the province wishes to follow the guiding principles set up out in the 1990 county reform guidelines document entitled *Towards an Ideal County*, there are only two alternatives: to legislate restructuring, or adopt this private bill to address voting authority inequities. As a member municipality, we cannot force restructuring, so please do not leave us in limbo by failing to deal with this proposed bill which in itself may bring a sense of reality to the vastly outdated system.

In our opinion, the private bill does address the county reform guidelines in the areas of representative government and representation by population, while ensuring that "no one municipality should have a majority of representation on county council." This is achieved by changing the voting authorities to realistic values as proposed in the private bill. Supporting documentation is available for your review.

We have a further page and an outline of the voting powers of the various municipalities. Under the present system, you can have four votes and no more, but the small municipalities have the opportunity of gaining more votes through an increase in population. For example, a village with 1,000 electors presently, gets two votes by getting 1,001 electors. This throws the whole thing out of proportion more than it presently is. The small municipalities are gaining more votes, while the large municipalities are frozen at four votes, regardless of what their population or voting factors are.

The situation is getting worse and continues to be an aggravation to the larger municipalities in the county. I hope you will support this bill as presented. It seems to be a workable alternative to the present.

The Chair: Thank you, Mr Ferris. At this point, I'll ask Mr White to speak on behalf of the Ministry of Municipal Affairs.

Mr White: The attempt by Bruce county and by its excellent representative is an excellent one to deal with the issue at hand, which is representation by population. The Ministry of Municipal Affairs, however—while we see in some areas a weighted voting system such as presently exists in Bruce county, where you have some situations of four votes for one council member, the extreme of one member having 16 votes is nowhere else in this province practised.

The other issue that's been brought up is representation by population. Weighted voting is not the same thing as representation by population. As was brought out, Amabel was very supportive of the recommendations of the Bruce county study, which would have reflected representation by population. What you're suggesting here with this bill is that you would have a stronger voice on council, but it's a weighted voice and not a representation by population, wherein you would have, say, one member on council for every 3,000 residents.

The Ministry of Municipal Affairs cannot support this wide a divergence from local governance as is practised in every other county municipality, upper-tier municipality etc throughout the province.

Mr Ron Eddy (Brant-Haldimand): I guess the question would be, why doesn't the ministry respect local decision-making? That indeed is what local government is all about. We have many upper-tier municipalities coming before us, including a bill on Ottawa-Carleton—and we may have to get into that—where the mayors have been deposed from the upper tier.

It's very important that local and upper-tier local governments be authorized to deal with their own problems and come up with their own solutions. I commend Bruce county council for working with this. It's not an easy thing. We've supported every bill, I believe, that's come before us with a change in population. Until such time as this government amends the Municipal Act and says there shall be representation by population, which would be a multiple system including very high numbers, far higher than these, or indeed goes to a decimal voting system, I think we must heed the wishes of local people.

I commend you for dealing with your problem because it's not an easy thing. I endorse it fully and I will be voting for it.

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Mr Hodgson: I'd like to concur with what Mr Eddy has just remarked. I know, from my experience, that it's very difficult to get a consensus on these issues and it's a long struggle. If the province isn't willing to step in and force amalgamation, and just puts local communities through the aggravation of endless studies and doesn't address the downloading of costs, it's becoming very difficult to run local governments, the way they're presently set up.

I commend you for this exercise. It does address some of the problems of the larger areas not being represented in terms of dollars spent at the county upper-tier level.

I'll be voting in favour of it, because it's local decisions trying to address local problems.

Mr Hansen: I'd like to hear from Mr White again. I didn't hear too clearly all the points the ministry was against, if you'd just go over that again. And could you speak up a little bit? Some of them were mumbled.

Mr White: Thank you, Mr Hansen. The issues before us are manifold.

Mr Hansen: Just make it short.

Mr White: First of all, the issue of sponsoring of local municipalities and local measures to deal with representation at either the local lower-tier municipality or the upper-tier county level is one which our government sponsors and supports, but within criteria.

As the member mentioned, one of the criteria of course is representation by population. It is very difficult, with the number of municipalities involved in Bruce county, to have adequate representation by population. The Bruce county study recommended eight lower-tier municipal units, and that would have allowed for representation by population on the council level.

That recommendation was not accepted, as we've already heard. That would have dealt with the issue of representation by population, but representation by population is not the same thing as a weighted voting. If, for example, on this committee we respected the wisdom and integrity of the member for Bruce and said that he should automatically have 16 votes, we would then wonder what the rest of us are doing here representing our areas.

Rather, what we're looking at with representation by population is that for every 2,000 or, for example, 3,000, as in the Bruce county study recommendation—in that recommendation every 3,000 residents would be able to send a representative to the county council, as opposed to Amabel township, which has about 8,000 residents, having one representative only, but that representative would have 16 votes.

A weighted vote is not the same thing as representation by population. It's not possible for one individual to represent the diversity of their community and to adequately reflect that population. That's why we have representation by population as one of the very strongest guiding principles around county reform, around municipal structuring.

Mr Hansen: That's fine. I just wanted to go over that again because we've had a quite a few of these before the committee before, from the Kingston area, I believe, and Frontenac, and there were changes made there. I just wanted to go over it again, because I didn't hear every point you made the first time.

Mr Eddy: The stance of the ministry causes me great problems. If we want representation by population in the upper tiers, then we'd damn well better do it for all municipalities and we'd better say, "From now on, that's the rule," because we haven't been dealing with that. In fact, in the case of Ottawa-Carleton the proposal of the mayors to come up with a system of multiple voting which would be closely aligned to rep by pop was refused. The Minister of Municipal Affairs stood in the

House and said, "We can't have that, because some people would have a lot more votes than others." Well, of course you're going to have that if you have a multiple voting system. You cannot avoid it.

I would like to ask whether the Bruce county people considered various systems of voting, including the alternatives presently in the Municipal Act, which are far too restrictive, and whether, in their opinion, this is the best solution to the problem of voting on county council by the representations of the constituent local municipalities in the county of Bruce. Do you strongly support this and feel this is the answer at this time for the county of Bruce?

Mr McIver: At this time, honourable member, it's the only way for us, because we attempted the other method, in the restructuring report, and failed.

Mr Eddy: But you did look at other systems.

Mr McIver: We looked at other systems, and to us this is the only system we can come up with that's going to adequately address the inequities in our present system.

Mr Eddy: Again, I think it's terrific that you've looked at your own problem and have come forward with a solution which is a far better system than that provided in the Municipal Act at the present time. Thank you. I fully support it. Let's get on with it.

Mr Elston: I'm extremely disappointed, first of all, in the attitude of the ministry. Basically, you're saying that because Bruce county refused to do the restructuring, you're going to punish them to prevent them from carrying out a restructuring of their voting? I think that is absolutely reprehensible. That is in fact what the parliamentary assistant said. He said, "If you guys had gone to eight lower-tier units, you'd have gotten a virtual population voting pattern."

I can't, for the life of me, understand why it is that some people here in the city of Toronto in the ministry's head offices believe they should prevent 65,000 people, through their elected representatives, from finding an alternative which more fairly reflects the way they want their upper-tier county voting to be carried out.

I know you're quite happy to be sitting there—and I've been watching you with some degree of interest as this discussion has been going on—laughing and being very smug about the fact—

The Chair: Mr Elston, I'm sorry. As Chair I do have to keep some semblance of order, and I think that is inappropriate.

Mr Elston: I apologize, but I'll tell you, the ministry has exercised a veto on my upper-tier government. These people have sat for months, they went through a tremendous amount of activity, and what they've basically been told by the parliamentary assistant is: "If you'd gone to the eight, you wouldn't have this problem. You chose the wrong option, and as a result, we are not going to support it." I, for the life of me, can't understand why the ministry wants our people to go through this again. Why won't you let them take this one step?

What is happening in this municipality, the upper-tier municipality of Bruce county, is the fact that there has been—and we were here in front of this committee some

very few weeks ago with permissive legislation to allow Huron township and the village of Ripley to come together to reduce from 31 to 30 the number of municipalities. People are taking their steps and they're making the changes that are necessary to manage their own affairs. I just can't believe the ministry wants to exercise its veto in this regard.

This legislation will permit this exact type of voting pattern to occur. It is, it seems to me, the will of 65,000 people that it occur this way. It's been discussed to death, and now we come to Toronto asking for your forbearance and for your permission to do what we want to do, thinking that the democratic process has worked very well for us. And now the ministry is putting its foot down and saying: "Aha, if you'd only gone for the eight lower-tier municipalities, you'd have had what you wanted. You chose the wrong one, and we're going to stop you."

I think that is reprehensible, I think it is problematic for upper-tier governments everywhere, and I really ask the people who represent areas similar to ours, who are going through some of the same types of difficult internal discussions, which cause so much agony, to help us get on with restructuring our county and letting us vote in a pattern that will represent the people who have settled there. It's a simple request. I don't understand why the ministry is being so difficult.

1030

The Chair: Mr Elston, I think you know you have to convince the members who sit around this table.

Mr Elston: But the ministry sits and says, "We don't want it, so don't do it."

The Chair: I appreciate your comments, and obviously the members are listening with interest because there are many people who wish to ask questions and comment. The next person on my list is Mr Hodgson.

Mr Hodgson: I have a question for the Ministry of Municipal Affairs. How did you ever expect this to happen? Local governments have gone through the exercise of restructuring and people have had a lot of experience seeing what the results are when they hit the communities. You have 31 local entities. In my opinion, these are steps towards have more efficient local government and more towards the principles of representation by population. But these are first steps. This weighted vote only applies to money matters.

When you get into a discussion on restructuring, go out and listen to what the discussion is about. Somebody who has a small tax base but has representation for their people to bring their historic needs to the table—they don't really care that it costs more money for that service delivery. Yet the province is downloading and saying: "Take a look at restructuring. Take a look at delivering your service more efficiently." Well, how do you do that unless you get the voting at the upper tier in some relationship to the costs of it?

This is a weighted vote on money matters. With all due respect, it's not what Mr White talked about, representing cultural or historical needs of one person, one vote, of equal across county table. They'll still have that. All 31, on anything outside of money, will still have their

traditional voting. This applies to money matters. If you have one town that's paying three to four times the costs, or 25% or 30% of the cost of the upper-tier government, and he gets the same vote as somebody who is paying 0.05%, you're never going to get restructuring, if that's what the ministry's objective here is. This is a first step towards that.

Mr White: To respond first to the issue Mr Elston brought up, when Mr Elston made the remark about laughter, I was certainly not laughing. I didn't observe the counsel laughing; it's certainly not behaviour that's typical of counsel. I must admit that I found that remark surprising, particularly from you, sir.

The issue of the Bruce county study I brought up on my initiative, simply because I was attempting to illustrate that there may be other mechanisms to address the issue of representation by population. I didn't personally take any part in that study, nor was I the parliamentary assistant at that time.

The effort, that is very genuine, to find a better mechanism to represent the population of Bruce county I'm sure will go on. I'm simply saying that there may be other mechanisms to achieve that representation by population and that weighted voting is not the same as representation by population.

Mr Hansen: Thinking of some of the other bills that have come through in the past from different counties, could the ministry staff give an idea of the restructuring that's gone on in a few other ones? I think they went the other way; I'm not sure. I haven't got any notes here from what we did before and I don't want to start changing the pattern we've had for the restructuring that's going on. Can you give us an indication?

Mr Satish Dhar: I'm Satish Dhar from the Ministry of Municipal Affairs. I've got a few examples of other representational changes that have been made. For instance, the Essex county council now has weighted voting and the maximum is two votes. There's one from Hastings; the maximum is four votes per member. This is by far the largest disparity we have encountered in all our experience in terms of changes to the representational schemes that have come forward to the ministry.

Mr Hansen: So four is the most, yet we're looking at 15 here.

Mr Dhar: Sixteen.

Mrs Ellen MacKinnon (Lambton): What in the world have you got in Amabel that would cause this type of voting to take place, 15 or 16, whatever it is?

Mr Ferris: Population.

Mrs MacKinnon: I know it's population, but what have you got that makes the population? Have you got factories, or what in the world? I've never even heard of this place, by the way.

Mr Ferris: You've probably heard of Sauble Beach.

Mrs MacKinnon: Yes.

Mr Ferris: That's Amabel township, plus a number of other communities.

Mrs MacKinnon: Okay. It just seems like a lot of votes for one municipality.

Mr Ferris: We have 20 times as much assessment and population as the smallest municipality in the county.

Mrs MacKinnon: How are you going to ever get any "fairness" in the voting at county council? It appears to me that Amabel and Port Elgin could almost outvote everybody else.

Mr Ferris: Not quite.

Mrs MacKinnon: They could make a good stab at it.

Mr Ferris: There are six municipalities that are much larger than the rest. We have a situation in Bruce county where we have a lot of villages, nine villages, and a lot of towns that are smaller than they were when they were incorporated. They still sit on county council as town and villages where they only have a very small population, as low as 500-and-some electors in some cases. We have towns that have less than 2,000 electors, but they sit on county council as urban municipalities and receive highway rebates, and have voting powers that are as much as or exceed those of the larger municipalities.

You have a system whereby you get one vote per 1,000 electors but you get two votes if you have 1,002 electors. We have municipalities with four votes that are only a very small fraction of the size of municipalities such as ourselves. You can have four votes on county council with a little over 3,000 electors, but you can have a million electors and you'll still never have any more than four votes. You can have any number of electors but still never get more than four votes.

The whole system is getting worse and worse, because villages are maybe picking up a few electors and getting a multiple vote, or getting two where they had one before, or three where they had two. But the larger municipalities such as Port Elgin, Huron township, ourselves, are sitting there gaining population much quicker than the small municipalities but still getting no more votes.

Mrs MacKinnon: Thank you. I'm still a bit confused about how in the world you're going to balance it out.

Mr Eddy: I appreciate the question of the member for Lambton because I do worry about the Lambton-Sarnia situation. If the government were to bring in rep by pop in Sarnia-Lambton, I wonder if the member knows what would happen. You would have one municipality ruling the roost. It would carry every vote. On upper tiers, you don't allow situations like that.

Even in the case of Hamilton-Wentworth, where the city of Hamilton is over 300,000 and the rest of the county was under 100,000, you have safeguards. You have more representation from the smaller municipalities, and you safeguard the situation by saying there has to be, at any vote, representation from more than two municipalities.

I'm pleased here that no one municipality can carry the vote without support. Indeed, I think you've pointed out that no two municipalities can, so it has to be more than two. So there are some safeguards.

I feel very strongly that we should grant the application of the county of Bruce and try it, and in the meantime we'll give the ministry the opportunity to look at the Municipal Act and indeed come in with a bill proposing

rep by pop on upper-tier governments across and see how it fares. In other words, treat everybody equally and see what happens.

I think this is the route to go at this time. Let's try it.
1040

Mr Fletcher: I don't quite agree with you, Mr Eddy, and rep by pop isn't something we can look at easily. I understand that restructuring is part of the process and is something we all have to go through at some point in time. Is there any way the counties and Municipal Affairs can work together and come back to this committee with a proposal after they've worked it out together, rather than us sitting here going back and forth saying, "This is what I want," and "No, this is what you're going to get"?

Mr Hansen: There are some other examples in Ontario.

Mr Fletcher: Yes. There has to be other examples. Instead of this antagonism, I think there is an opportunity here to work together with Municipal Affairs, come back to this committee and have a demonstration of some cooperation in terms of trying to iron out a problem that has been around, presumably, for a long time. I don't think it's something about which we as a committee can just say, "Yes, let's do it and let the chips fall where they may."

Along with Ms MacKinnon, I have some concerns in terms of the different mosaic that goes through Bruce county, especially when you get up into the Bruce Peninsula—dry counties—and there is a possibility of being outvoted on something someone in the Bruce Peninsula may not want.

There has to be some give and take and there has to be a way of working this out. I'm asking: Is there a way or is there any opportunity for the counties and Municipal Affairs to get together, come back with a good plan and bring it back to this committee? If we could do it today, it would be fine. If we cannot do it within the allotted time today, perhaps in another week or two.

Mr McIver: Maybe Mr Fletcher could give us some idea of where he's coming from with his proposal. We have tried to work with Municipal Affairs in the past, and we've been told it's been too busy with other legislation, so I would like to have some indication what his proposal would be.

Mr Fletcher: They are probably busy, but I think a recommendation from this committee that they do get involved would carry some weight. Perhaps Municipal Affairs could in the short term take a look at a possible recourse to what is going on rather than what is going on here today. This is not productive today.

Mr White: I'm wondering if Mr Dhar, who is the senior policy adviser, could illustrate for the committee what the process has been with Bruce county.

Mr Dhar: We haven't really had an opportunity to work with Bruce county. Certainly we'd be prepared to work with them on this issue and come out with something in the future.

Mr Elston: I'm sorry, but we went through the restructuring stuff. It started some time ago. Ministry officials were in the county for some time. It may be that

Mr Dhar has not put any time into this because he wasn't associated with the restructuring study. He maybe wasn't able to participate in all the discussions and all the anguish the local representatives went through, but the ministry has been involved in this county and has been involved very deeply in this county for a long, long time. If Mr Dhar has something that he believes is a proposal the ministry would accept, maybe it should be put on the table for us right here.

You have said this is a deviation from the current circumstances. What is the problem with the deviation? Is it because Bruce county is going to have something that is too different? The representatives elected by the ratepayers up in Bruce county have come together and said: "Let's try it this way to show that we care about large municipalities and small municipalities. We think this will be a much better-balanced situation." And basically the ministry is saying: "No. We think you people are all wrong. We're going to protect you from yourselves. We don't think this is a proper variance." Can you tell us if 15 or 16 is too many? What is it that you think would be the right mix for Bruce county that obviously the elected officials have been unable to think of when they've gone through all this stuff?

Mr Dhar: The concern is what Mr White mentioned, which is the extreme disparities of representation by voting on county council. The concern is the confusion it might create with one member having 16 votes and another member having one vote. Basically, this is the concern. The maximum that I'm aware of so far is one member having four votes. This is not even five or six or seven or eight; it's 16, four times as much. This diverges considerably from present practice, and that is a concern.

Mr Elston: But what can be so confusing? If I represent Hepworth, I may have one vote. If I represent Amabel, I have 16. What's confusing? I don't understand your concern. Do you think the local people don't understand what their weighted voting is going to be?

Mr Dhar: The extremes here can cause confusion. Here it's not a quantitative difference, it's a qualitative difference in terms of what we are talking about: four times as much as exists elsewhere. That is the main concern.

Mr Elston: But the upper level of government has come together in Bruce county, the people who manage a unit of about 65,000 people, and growing faster in some parts than the others, saying, "This is how we want our upper tier to work," and you're saying, "No, no; this shouldn't work for Bruce county because it's different than for people in Essex."

Essex has one village, I'm told, and the village of St Clair Beach has a population that's larger than a lot of other towns in the area, but that's the one that you used as an example.

So tell me, why is it that the ministry believes the upper level of government can't set its own voting patterns in a way which reflects, in their view, as elected representatives, the patterns they want to have addressed at their upper level of voting?

Mr Dhar: It's felt that the voting system is so

extreme in terms of its disparities that it could be considered inequitable.

Mr Elston: By whom? By you.

Mr Dhar: Yes, generally, in terms of the public interest in this matter.

Mr Eddy: It's not in the public interest. It's up to the elected representatives to decide how—

The Chair: Mr Eddy, order, please. You have an opportunity in a few minutes to state your opinion.

Mr Elston: But both the people who are with me today are members of county council, and the county council itself has voted, with the voting levels they currently have, to move to this new system. Doesn't that tell you something about what the people in Bruce county would like to try and make work? I don't understand why Municipal Affairs says, "The people in Bruce county don't know what's good for them, so we're going to save you from yourselves." Please explain it.

Mr Dhar: Maybe I can repeat what the minister has written in his letter, which is, "The degree of inequity that will exist among members concerns me, and I'm unable to support your private bill application."

The Chair: Mr Elston, we have other members who wish to proceed through questioning. That's not to suggest that you don't have a valid point to make, but they in turn, as people who are going to be voting on this bill, should also have an opportunity to ask their questions.

Mr Elston: I just want to leave one more remark and then I'll be quiet. A group of 31 representatives in a county council in Walkerton, Ontario, through several years, has gone through all kinds of attempts to look at what might be done to revamp their way of administering the upper level of government; put a lot of time into it, a fair number of resources. They don't want to have eight lower-tier municipalities, but they have opted for a more fair voting structure. Now those 31 men and women, having voted under the old voting system to go to this new voting system, are being told by Municipal Affairs, "We don't think you people know what you're doing, so we're going to save you from the disparity you've voted to implement."

So tell me, what is the point of these 31 men and women coming together to discuss local problems if really what they should be doing is accepting what the Municipal Affairs people are telling us?

The Chair: Mr Elston, I think you also know what the job of the Chair is. The job of the Chair is to remain as neutral as possible under the circumstances, and if I have to vote, I only vote in the case of a tie. At this point, it is my obligation to say to you that I think everyone in this room recognizes that your county council has worked very hard to try to come to a conclusion. I'm going to turn to Mr Hansen.

1050

Mr Hansen: I could go with the suggestion of Mr Fletcher to sit down to talk to Municipal Affairs, defer it for a week or two, fast-track it and come back. Otherwise, I know how I'll be voting the way the bill is presently: I'll be voting no.

Mr Eddy: One of the rules I follow as an elected representative is that I say it's not for me to decide what form of local government you are going to have; it's for you to decide and it's for me to support that. I may have some views and I'd like to have some opinions about it, but it's for the people of the area to decide on workable solutions to their problems. Where we find that things don't work is when local representatives are not willing to face their problems and come in with a solution.

The ministry officials have mentioned that the highest voting power in an upper tier that they know about is four, but I want to inform you that in the happy days before regional governments in the province, there were some problems in the counties, particularly Peel county.

The township of Toronto, which formed the basis for the city of Mississauga with a number of other municipalities like Toronto, Gore township, Port Credit, Streetsville etc etc, paid 65% of the county rate, and they said: "We're not going to be part of this. We have"—what was it? Two votes each? They had the maximum number of votes. They dealt with their problem before Peel region was formed, and it saved Peel county. They came in with a bill which the government I think was pleased to accept and approve, and that added extra representatives on Peel county council for Toronto township and it gave extra voting power; I recall it was six or eight votes each. It recognized the problems of the day.

I'd also make the point that the Ministry of Municipal Affairs has had the opportunity for input. I've been advised by the representatives of Bruce county that they did talk to the ministry, and they are very busy and they probably have much more important things to deal with than imposing their will on the locally elected representatives in Bruce county, who I respect and commend again.

I think we should pass the bill, but maybe the ministry could monitor. If some municipality comes forward with a complaint, it's simply a private bill; it can be amended and it could be replaced, it could be rescinded. Let's see if the solution proposed by the Bruce county representatives will work and is workable and is acceptable. A municipal election, I understand, is coming up this year. Unfortunately, I won't have the opportunity be involved in it. But let's recognize what the Bruce county people want and let's see if it works. If there's a complaint in this next term, we'll have to face it. The ministry will, I'm sure, come forward with something.

Mr Hodgson: I have a clarification for the ministry officials. I was a warden of a county that has a greater discrepancy in weighted voting than this proposal gives. I was the reeve of a municipality that had almost 25% of the total weighted vote at county council. I was also the warden last year. This is not uncommon in rural Ontario for county structures. There are 140 votes in total on their schedule; the maximum number is 15. It doesn't come near some of the weighted votes when you just stick to the four. I had four votes out of 21 and some had four votes out of 17. This is 15 votes out of 140. This is in line with what goes on in the rest of Ontario. That's one point.

The second point is a follow-up to Mr Eddy's. This is a private bill, and we're looking for solutions; that's what

politics is about. These people are accountable to their electorate. As a province, we should look at this test case and say, "Does this meet the needs?"

The problems associated with restructuring are twofold: One is the historical community sense of values that are identified in each one of these 31 municipalities, but the second is the provincial structure of grants. They lose money, these smaller areas: They get a higher road subsidy than they would at the upper tier or at the larger municipalities. So let's take advantage of test cases we're presented with. This is a private bill. Let's take a look at it for a couple of years. It's not out of line with what goes on in the rest of the province.

Mr Tony Martin (Sault Ste Marie): It seems to me that what we're talking about here is the business of trying to on one hand respect the age-old principle of rep by pop while at the same time trying to protect though the interest of those who in that kind of system often-times get snowed under or have no voice. I'm sure any of us who represent regions where smaller municipalities interact with larger municipalities around the dissemination of resources and that kind of thing understand what this is about and understand the difficulties inherent in it.

I'd be very interested in knowing—and I don't see any of it here today; maybe I'm just missing it—how the smaller communities in Bruce county feel about this. Are they in support of this change? All I see is one presentation here from the township of Amabel. I don't see letters from the numerous other smaller communities, and I'm wondering how they're feeling about this particular piece of work. I would find that helpful in determining my response to this, given that they stand to lose in this exercise, and I think in looking at the fairness of this we should be considering their concerns. That would be my concern, personally, trying to respect the rep by pop principle, as we do in a modern progressive society, while at the same time protecting the interest of the smaller group, those who may not have the kind of say they need to protect their interest.

Mr Dhar: Mr White's asked me to read the recommendations of the Bruce county study. I'll just read the first four.

"(1) The study committee recommends a restructuring proposal for Bruce county that will consist of eight lower-tier municipal units. The restructuring option proposes that urban and rural be combined in the same municipal unit.

"(2) The study committee recommends that all eight municipalities be represented on county council.

"(3) The study committee recommends that county council composition be based on one representative for every 3,000 electors or population, whichever is greater, with a variance of up to 50%.

"(4) The study committee recommends that the principle of representation by population extend to all lower-tier municipalities with respect to the configuration of local council."

These are recommendations on representational issues.

Mr Elston: What does that have to do with this proposal?

Mr White: The member was asking a question about representation by population and the representation on council of the local municipalities. Those items were certainly dealt with in the Bruce county study. The Bruce county study, as you know, Mr Elston, involved almost full-time work from the Ministry of Municipal Affairs in conjunction with the local council, extensive and long-term work on this issue. So the idea of coming to a resolution at this point in time or being able to defer an issue for a couple of weeks when this issue took such a long time to process, I'm not sure is realistic.

The Chair: Mr McIver, I believe you want to also answer Mr Martin's question.

Mr McIver: You were asking if there was any objection from the smaller municipalities. This bill was circulated to all municipalities and there were no objections to this proposal. Just to comment—

The Chair: Mr McIver, we still have a couple of other members to speak. We have other business to conclude as well today, so I'm going to try to move along to a vote shortly.

1100

Mr Elston: Madam Chair, he had a couple of responses. Mr McIver was actually the chairman of the restructuring study group in the county, and he's now the warden. I think you might want to hear some of his—

The Chair: Could I get the other questions that are being put forward. If there is something he can add at that point, we can get a number of things taken care of, okay?

Mrs MacKinnon: I would like to pursue a bit further what Mr Eddy said a few minutes ago, maybe just clarification or something. You said to let them have this particular request, monitor it for a year, two years, whatever. My question is, are we going to open the floodgates? If so, are we prepared to deal with that? Will we not have counties all over this province coming in and saying, "You've done it for"—what is this, Huron county?

The Chair: Bruce.

Mrs MacKinnon: Bruce. Pardon me. Sorry, Murray.

Mr Hansen: No laughing, Murray.

Mrs MacKinnon: If we do it for this, as I said, are we going to open the floodgates?

Mr Eddy: I'd like to respond to that at some time.

Mrs MacKinnon: Bear in mind that I have no problem with your suggestion; I just want to pursue it a bit more, that's all.

Mr Fletcher: Again, I believe there could be some accommodation made, and I don't think it can be made right here and right now. As to the comments about coming to Toronto and Toronto is saying no, that's not what is happening.

Mr Elston: What is happening?

Mr Fletcher: I think the ministry was quite clear in its position that this is out of the ordinary and it needs some work, and right now there is an opportunity for there to be some work done with Municipal Affairs to get a good resolution to the situation. It's not a problem. I

think there are solutions, and the solutions can be dealt with. I don't think it can be dealt with in the bickering that's going on back and forth the way it is right now.

Mr Elston: So what are they?

The Chair: Mr McIver, I will give you an opportunity to answer some of the concerns that you feel were raised here.

Mr McIver: Thank you, Madam Chair. I'd like to sum up by agreeing with some of the statements Mr Hodgson made.

For people who don't understand counties—they're a little difficult, maybe, for some to understand. But there are 26 counties in the province, so we're not that unique. We went through the restructuring exercise and we had ministry staff and the whole business, and we took a lot of time to try and sort this thing out, but it didn't work for us with regards to the amalgamation aspect of things. One thing we do know in Bruce county is that we're not ready for eight municipalities, the people are not ready for eight municipalities. But what the county council realized is that there are serious inequities within the system. There are members of county council, as Murray as indicated, who are working towards smaller amalgamations, but there are still inequities, and these inequities, we feel, have to be addressed by this private bill we've put forward here. We would just hope this committee here would give us some consideration to try and correct that situation.

The Chair: Thank you, Mr McIver. Are the members at this point ready to vote?

Mr Eddy: No. I'd like the opportunity to just answer the member from Lambton on her questions that were directed to me.

The Chair: Briefly, if you could.

Mr Eddy: Yes, very briefly. The answer to the question is that I don't think we'll see a flood of counties coming forward. Many counties are happy with the present provisions in the Municipal Act, which provides a reeve and a deputy reeve and votes based on 1,000 electors. It's not the best system.

Several counties have gone to the alternatives in the Municipal Act, the first being changing the representation on county council from votes based on 1,000 electors to votes based on 2,500, which of course results in many counties having deputy reeves locally who do not sit on county councils. You're familiar with that. Many other counties have gone to the system of reeves only where the voting power is based on 1,000 electors, but that is the same problem.

Then there are quite a few other counties, and I would expect it's approaching approximately a dozen, who have come forward and have private bills which deal with the number of representatives on county council and the voting power thereof, and there are various systems in place on those. They're already in place. That's what they wanted; that's what they got. The ministry may know the number, but it's between eight and 12 that have gone that route. They've tailored it, have done much like Bruce county council: They've looked at their local problems—as you know, areas are unique—and they've come up

with a workable solution, it's come forward, and it's been approved. I don't know of any complaints about that or any petitions to change the system.

The whole solution is for the ministry to change the Municipal Act and say that representation voting power on county council shall be such system as the county council shall determine in cooperation with and with the approval of local municipalities. That's really the answer to the whole thing, to let the local people figure it out.

The answer is no, there will not be a flood, because (1) of the two alternatives presently in the Municipal Act and (2) of the several counties who have private bills tailored to their individual needs, like Bruce county would like to.

The final point is that rep by pop is a guideline but we really don't use it provincially. As members sitting here, we're not really sitting here representing population on an equal basis. I realize there's a system for that and it has to be.

Mr White: You're ahead. It's to your advantage.

Mr Eddy: Well, I don't know. I actually maybe represent fewer people than you do, parliamentary assistant, and some people would not consider that fair, especially when I have so much to say about some issues.

The Chair: I won't get into that for anything.

We have gone round the table several times, and at this point I'm going to put forward the question. Are members prepared to vote? Agreed.

Mr Eddy: Unless there's a deferral motion.

The Chair: So we will be voting on Bill Pr115, An Act respecting the County of Bruce.

Shall sections 1 through 4 carry? May I see hands? Shall sections 1 through 4 carry? Those in favour? Those against?

Mrs MacKinnon, you are going to have to vote.

Mrs MacKinnon: I can't find the bill. I want to know what I'm voting on.

Interjection.

The Chair: Excuse me, Mr Eddy. Those against? I'm sorry. Mrs MacKinnon didn't show. Those against?

Mr Eddy: She voted for it, as I saw.

The Chair: Thank you. Those sections are defeated. I would suggest that, under those circumstances, trying to deal with the bill and what have you would probably be—well, I'll ask the question.

Shall the preamble carry? Again, would you please show? Those in favour?

Mr Hansen: Same vote.

The Chair: Shall the title carry?

Mr Hansen: Same vote.

The Chair: Same vote.

Shall the bill carry? Same vote.

Shall I report the bill to the House? Same vote.

Mr Eddy: We'd like to assure the representatives from Bruce county that a new government will be more receptive to them.

The Chair: Thank you, Mr Eddy, for your editorial comment. Under the circumstances, I think it's appropri-

ate to thank the members from Bruce county for their time and effort.

Order. If you want to hold conversations, I would ask members to go out into the hall.

1110

CITY OF TORONTO ACT, 1994

Consideration of Bill Pr79, An Act respecting the City of Toronto.

The Chair: The next order of business is Bill Pr79, An Act respecting the City of Toronto. Would Mrs Akande, as the sponsor, and the applicants please come forward. Please introduce the applicants and make any opening remarks you would like.

Maybe you'd better give it another minute, Mrs Akande, and wait for the noise level to go down.

Ms Akande: I am pleased to introduce to the committee Bill Pr79, a proposed amendment to the City of Toronto Act to provide the city of Toronto with the power to require proprietors of licensed premises to prominently post and maintain one or more signs warning that health risks are associated with drinking alcohol. The legislation as proposed would be an important component of the city's health promotion strategies which promote public awareness about the health risks associated with drinking alcohol.

I want to introduce you to those present here: Toronto city councillor Kay Gardner, city solicitor Dennis Perlin, and I believe Peter Tabuns.

Ms Kay Gardner: I'm sorry, Peter just left. It's Dr Perry Kendall, medical officer of health.

Ms Akande: You've got to tell me about these things.

The Chair: The noise in this room does strange things. I would ask all members and observers to kindly keep that in mind.

Ms Gardner, please let us know who the gentleman on your far right in fact is. I must admit I didn't hear his name.

Ms Gardner: I'm sorry, Madam Chair, that we didn't tell Ms Akande that it is Dr Perry Kendall, our medical officer of health for the city of Toronto. Peter Tabuns is the chairman of the board of health and just had to go back to the office, so he is not present. I'm here instead.

The Chair: We're very happy to see you. You may choose among yourselves who will be making the initial presentation, and then we'll open it up to questions.

Ms Gardner: I will make a very brief presentation and then perhaps your committee would like to ask the city solicitor and the medical officer of health any questions you so wish.

Madam Chair and members of the committee, Mayor Rowlands was not able to attend this committee today and in her absence has asked that I provide the committee with an overview of the legislation being proposed by the city of Toronto respecting the posting of signs warning that health risks are associated with drinking alcohol.

The council of the city of Toronto is providing significant leadership in its health promotion and public awareness campaign to raise community awareness regarding alcohol and health, including an increased emphasis on

alcohol in school and community education programs conducted by city staff. City staff have also worked with the board of health subcommittee on substance abuse, health professionals, the Addiction Research Foundation and similar organizations to promote public awareness of health, social and fiscal costs of alcohol abuse.

The main purpose of this legislation is to enable the city to require the proprietors of licensed premises to prominently post and maintain one or more signs warning that health risks are associated with drinking alcohol. The proposed legislation, if enacted, will also allow the city to prescribe the location, size, wording and details of the sign which the proprietor is required to post.

It is my understanding that the city of Richmond, British Columbia, and many cities and states in the United States, including the state of New York, the city of Los Angeles and of course the city of New York and Palm Beach county in Florida, have similar legislation.

The city of Toronto believes this legislation is necessary to enable the city to continue its leadership role in the developing of alcohol abuse prevention strategies. I therefore would respectfully request that this committee support this legislation as it is proposed.

I would like to now ask our city solicitor, Dennis Perlin, to provide you with some background material on Bill Pr79.

Mr Perlin: Assisting Councillor Gardner is the chair of the city's neighbourhoods committee in presenting the technical nature of the bill. With me is the medical officer of health, Dr Kendall, and he would obviously be better able to elaborate on the health prevention and promotion strategies involved with respect to what is being proposed.

We're here this time, as I was here a previous time, really seeking clarity of our powers. Section 102 of the Municipal Act does allow for municipalities to pass bylaws regarding the health, safety, morality and welfare of the inhabitants of the municipality, if not dealt with in the Municipal Act or dealt with otherwise. The issue for us is whether there is any doubt as to the city's power to require the signs, by virtue of the Liquor Control Act or by virtue of the Liquor Licence Act, regarding the sale and distribution of alcohol. Those acts are silent with respect to the issue of the posting of signs, so one might infer that because there is no dealing with this matter elsewhere in legislation that we already have the power to require the posting of signs by virtue of the Municipal Act.

But we wanted to clarify the legislation because we are so regulated by very strict confines of the Municipal Act, so we've come forward with this particular bill. I know you've been here already a great deal, so I won't go on any longer. The bill is fairly self-explanatory. I would only suggest to you that there will be some amendments that are being proposed, as I understand it, and the city is in agreement with those amendments. They will help clarify how the posting of signs will be done. We wanted to let you know that we are in agreement with those, and of course we would ask you to approve the bill and report it to the House for passage.

The Chair: Thank you. Dr Kendall, did you have one or two comments to make?

Dr Perry Kendall: Yes. Madam Chair, committee members, I'd appreciate the opportunity to give some background to the health reasons for this bill.

Alcohol is the most widely used drug in Ontario and its abuse is one of the most serious preventable threats to the health of the people of this province. In terms of adverse health effects, alcohol abuse is second only to smoking. A Ministry of Health report, *Partners in Action: Ontario's Substance Abuse Strategy*, notes that alcohol plays a part in a long list of society's most serious problems, from spousal and child abuse to traffic and accidental deaths, health problems, lost work time, violence and crime.

A further report states, "The problems stemming from alcohol use burden not only the health system but also the social services system, the legal system, employees, families, social relationships and individuals themselves."

The document notes that 50% of all Ontario traffic fatalities are related to alcohol; 30% of all falls, drownings and fires in Ontario are related to alcohol, which would amount to about 1,000 deaths per year; 10% of all Ontario cancer deaths are related to alcohol, which amounts to over 1,500 deaths per year; 5% of deaths due to heart disease and stroke are related to alcohol, which amounts to over 1,500 deaths per year.

Heavy alcohol use is also the primary cause of liver cirrhosis, alcohol psychosis and alcohol dependence syndrome. We also know it is the commonest preventable cause of mental retardation in newborns. And contrary to popular belief, these alcohol-related problems are not limited to the 10% of problem drinkers that we all know about. Research clearly shows that the harm from alcohol increases as the amount society drinks increases.

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The Addiction Research Foundation's fact sheet estimates the social costs due to alcohol use in Ontario at about \$5.8 billion, which I would ask you to contrast with the estimated provincial revenue of \$1.4 billion. There is absolutely no doubt that a reduction in overall alcohol consumption would reduce not only the cost of providing health care in this province but also the costs of many of our social programs. Achieving that reduction is one of the major public health challenges.

It would be naïve to believe that the public is aware of all the problems that alcohol can cause or that these will be solved without a massive change in attitude in the combined efforts of government and health professionals.

We have evidence that warning signs are an important and useful way of raising awareness of alcohol use. We have a lot of evidence, which I think the ARF could introduce, that where alcohol beverage labelling or warning signs have been introduced, that awareness has risen. We know from New York state that when they introduced warnings on foetal alcohol syndrome, the mothers' awareness of this increased by a significant 13% in one year. Other studies show a greater increase in awareness and intention to reduce drinking.

Given the importance of this and the support for this

from the public, I would just like to say that our existing signs have been well received by the public. Compliance by the business community has been excellent. It's only one part of the city's comprehensive strategy to promote low-risk alcohol use. Its other strategies include public and school-based education, workplace policies, server interventions and support for advertising and pricing policies.

I'd like to thank you for your time and just close with one quote, if I could:

"Alcohol is not just another consumer product. A substance associated with so many serious health, social and economic problems, affecting all levels of society and all age groups, deserves special attention and regulation. This is one of the central premises on which the provincial substance abuse strategy is based."

I would ask you therefore to support the enabling legislation and help reduce the serious problems caused by alcohol abuse. Thank you.

The Chair: Thank you, Dr Kendall. Just to let all visitors know what the usual procedure is, we try to get all interested parties on either side of the question to make their presentations first and then open it up to comments from the parliamentary assistant and then to the members.

At this point I would ask the following people, who I understand would like to make a presentation: the Ontario Restaurant Association, I believe Mr Oliver, Jan Westcott of the Brewers of Ontario, Ms Cimicata of Bacchus Canada and the Ontario Hotel and Motel Association, Diane Stefaniak. Since that's, I think, enough for the microphones that we have available for the moment, I would ask you all, realizing that this committee normally ends around 12, to keep your remarks in that time frame.

Mr Oliver, if you would like to begin, please.

Mr Paul Oliver: Good morning, ladies and gentlemen. On behalf of the Ontario Restaurant Association, I am pleased to appear before you today in order to provide you with our views and our comments on private member's Bill Pr79.

Generally, as a course of practice, the ORA has traditionally not appeared before this committee regarding private members' legislation, as this type of legislation is generally of a regulatory or technical nature and does not set government policy. However, the association felt compelled to appear here before you today because we see Bill Pr79 as much broader than a simple regulatory issue.

We believe that it is fundamentally changing the relationship and the clear delineation of responsibility between the municipal government and the province of Ontario. In particular, we are concerned that the legislation is undermining the authority of the Liquor Licence Board of Ontario and creating a costly, patchwork, regulatory environment in Ontario through which the hospitality industry must operate and by which consumers are impacted.

Bill Pr79 will enable the city of Toronto to require all licensed establishments and locations where adult beverages are sold to require the posting of mandatory signs warning of the health risks of drinking beer, wine and

spirits. Currently in the city of Toronto, the city has required mandatory signs warning that drinking beer, wine or spirits during pregnancy can harm the baby.

This sign has been up for several months within the city of Toronto and the city has now come forward to the province asking for the enabling legislation which would allow them to actually have the sign posted. This type of mandatory sign is presently outside, or our belief is it's outside, of the regulatory parameters of municipal governments.

It is further our understanding that officials within the government of Ontario have raised significant concerns regarding the wording of the existing sign which has been placed in Toronto establishments because of its tendency to single out certain members of our society.

As a result, Bill Pr79 has been amended to eliminate the reference to pregnancy or foetal alcohol syndrome and instead would not allow the singling out of one member of our society or one ailment created possibly by beverage alcohol.

This is one of the areas where our concern arises. We believe that this type of regulatory activity is clearly within the responsibility of the Liquor Licence Board of Ontario and the Ontario Ministry of Health. We do not see a need for the city of Toronto to intervene in an area of legislation already clearly within the responsibility of the province of Ontario.

In particular, we are concerned that if the government of Ontario gives this responsibility to the city of Toronto, then it is in fact abandoning its responsibility to regulate beverage alcohol in Ontario. If this is the case, we see this as an undermining of the responsibilities of the Liquor Licence Board of Ontario and in fact diminishing its role as a regulatory body in Ontario.

We, therefore, do not believe that the city of Toronto should be intervening in areas which are already clearly within the scope of the provincial government.

Secondly, we are concerned about the patchwork and the regulatory burden placed on operators, in particular foodservice operators that operate in various municipalities throughout Ontario.

One of the reasons that this health promotion responsibility regarding regulation of beverage alcohol is at the provincial level is to ensure that a consistent message is delivered across Ontario in all municipalities, in all licensed establishments and all locations where adult beverages are sold.

By allowing municipalities to intervene into the regulatory area rather than the promotion area, we will not only undermine this consistent and regulatory message, but we will also add a regulatory barrier or burden on small businesses that operate in several different municipalities.

This creates a situation where, on one side of the street, an operator is required to post signs whereas, on the other side of the street, they may not be required to post a sign or, in the future, will be required to place a different sign with a different message in a different location.

For businesses operating in Ontario, this adds substan-

tial cost to the cost of doing business. For consumers it's extremely confusing, and this in turn may reduce the effectiveness of provincial educational programs already under way as well as reduce the impact of municipal educational programs.

We believe it is imperative that as much responsibility as possible be maintained at the provincial level to ensure a consistent regulatory environment throughout Ontario and to ensure that the public receives a consistent message, regardless of whether they reside in Toronto, Oshawa, St Catharines, Windsor or anywhere throughout Ontario.

For an operator operating in two municipalities, if he or she knows that they have to place a sign but it's provincially mandated, they will know what the sign is, where the sign is to go, and the rules are consistent. But if you have various municipalities adopting a patchwork quilt of legislation, various signs, various rules, this creates a huge regulatory burden for small operators.

We are trying to move away from this in the area of food-handling regulations within our industry by working with the Ontario Ministry of Health to develop more commonly accepted interpretations of food-handling regulations.

Unfortunately this regulation or Bill Pr79 on adult beverage signage moves in the opposite direction. Everyone in this room, I'm sure, shares the belief that we need to reduce the administrative and regulatory burden placed on small business as well as the cost of government in general.

Regretfully, by shifting regulatory and legislative responsibility from the provincial level to the municipal level, we are undermining these initiatives and in fact are developing additional regulatory burdens and additional costs for taxpayers, and it's only one taxpayer.

Therefore, because of the cost placed on small business, because of the regulatory burden of having patchwork legislation all across Ontario and the strong possibility that the public will receive conflicting and different messages, we would encourage this committee to reject Bill Pr79 and maintain regulatory and legislative responsibility at the provincial level.

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In addition to the arguments already set out, we are concerned that Bill 79 will create costly duplication which will impact taxpayers. By allowing municipalities to enter into a field which has traditionally been reserved for provincial regulatory agencies, we fear that there will be duplication and this in turn will place a substantial cost on taxpayers who will end up paying for the same service delivered by two different levels of government.

The ORA believes it is important that there is a clear delineation between the federal, provincial and municipal responsibility when it comes to regulating adult beverages so as to ensure that scarce tax dollars are not wasted through the costly duplication of services by different levels of government.

If the province were to bring out signs in the future, how would this impact on municipalities that already have signs? Once again we would have to go back and

revisit this legislation, undertake a review of it or create a duplicate regulatory structure. This will place an additional cost on taxpayers or mean resources from other more important projects will have to be cut or diverted towards this project.

As a taxpayer I'm quite concerned when I see municipal governments intervening in provincial issues or the province intervening in municipal levels. I believe that as taxpayers we get the most value by having clear responsibilities and not having one level of government intervening in the regulatory area of another.

The licensing and regulating of adult beverages in the province of Ontario is clearly a provincial matter. Therefore, the Ontario Restaurant Association believes that it should continue to remain within the scope of the government of Ontario. For this reason, I would once again encourage this committee to reject Bill 79 and continue to maintain regulatory responsibility for licensed establishments and retailers of beverage alcohol at the provincial level.

The Chair: Thank you, Mr Oliver. I reiterate the fact that we do have some constraints of time. I would also like to advise members that you've received some correspondence from some different associations that are not represented this morning as well as from some other constituents who wish to express their opinion. The clerk has distributed them for your perusal and information. I would ask Jan Westcott to make his presentation.

Mr Jan Westcott: I'm Jan Westcott. I'm the executive director of the Brewers of Ontario, an industry trade association that represents all of the licensed brewers in the province of Ontario. I also represent and speak for Brewers Retail Inc, which is a private company that operates 432 retail stores as well as a province-wide wholesale distribution system that services bars, restaurants and hotels for beer. It's commonly known as the Beer Store. I'm sure many of you have been there.

I've asked to appear today to oppose the bill and the application by the city of Toronto. I have four reasons—some of which Paul has touched on, but I'll be brief—why Ontario brewers believe this legislation should not proceed.

Beverage alcohol policy and all of its aspects is the absolute purview of each provincial government. It's a jurisdiction and a responsibility that has been very actively guarded and very jealously guarded for almost 65 years, since the end of Prohibition.

When the federal government passed the Importation of Intoxicating Liquors Act in 1927 or 1928, it started a process going that said provincial governments are responsible. Provincial governments for a number of reasons, social, health, revenue, environmental, have guarded that responsibility very jealously, and in fact there have been many, many fights with the federal government of Canada over who has constitutional authority in this area.

Over the time this has taken place, Ontario has evolved a very strict set of rules governing virtually every aspect of the beverage alcohol business from manufacturing to sale to promotion and advertising. I used to work in the nuclear industry. I thought that was a heavily regulated

industry. I was kidding myself. Compared to alcohol, compared to beer, wine and spirits, there is no other industry that has the extent of government involvement in its business on a day-to-day basis in every single aspect. They tell us what we can make, how we can make it, where we can sell it, who we can sell it to, and on and on and on and on. And the fact is, the Ontario public has come to accept that and has come to respect that.

We have what is considered among the most comprehensive regulatory framework that exists anywhere. It's overseen by two very large provincial agencies, the Liquor Licence Board of Ontario and the Liquor Control Board of Ontario, which report to the Ministry of Consumer and Commercial Relations, which, I am surprised, given that we're talking about changing alcohol policy fundamentally in Ontario, isn't represented and isn't playing a part. Both of these organizations play a very active role in examining, modifying and shaping public policy on alcohol and ensure that Ontario policies reflect both current concerns and new developments.

We think it's completely inappropriate to further delegate the authority resident in these two bodies to the city of Toronto, which has neither the background nor the experience to adequately address these policy issues. At a time when governments are having considerable difficulty meeting their existing mandates, including the city of Toronto, we are perplexed as to why this duplication of responsibility and jurisdiction is being proposed.

This all started with the city wanting to do something on FAS. Our experience with the city over the last two or three years indicates that in considering such issues as foetal alcohol syndrome and other issues related to alcohol abuse, the city hasn't always been guided by facts and science. In fact, in many cases it seems to be just plain politics.

I'm going to talk a little bit about FAS. I know that the legislation has now been broadened and I'm going to talk about FAS, because that's where this started. It's a fact that research conducted in August 1991 among women in Toronto demonstrated that an astounding 92% of them were aware of the risks of drinking while pregnant and did not need science to inform them.

Moreover, when they were asked where they could get reliable information about health issues around drinking while they were pregnant or otherwise, 42% said that they could get it from their doctors, another 41% said that a national education campaign would be instructive, but only 2% said that warning signs might provide this information.

It's a fact that when the city proposed to do this, and many groups came forward to speak to this, several groups that worked directly with women most at risk in respect of FAS told the city that signs weren't the answer. Specific programs targeted at risk communities were what was needed, and that's where the attention and the resources needed to be focused.

It's a fact, or it was stated repeatedly, that a lot of the people who are most at risk from things like FAS in fact don't speak English. There were pockets in the community of various people with different cultural backgrounds, so putting up signs was literally a wasted effort. There

was also some comment that many of the people that were potentially at risk from this were not literate and that targeted programs that would address these people at risk needed to be developed.

The Chair: Mr Westcott, we have probably six more groups. You've taken over five minutes now. We are running within time constraints.

Mr Westcott: That's fine. I'm getting to the end.

It's also true that some women's organizations came forward and said that they opposed the approach that was being taken by the city. What I'm trying to point out is that these are complex issues. They're not dealt with simply, they are very prone to local politics, and the value of having a provincial authority look at this and determine policy has become quite evident to us. We think it would in fact be very retrogressive if the policy were now to be determined by local politics as opposed to study, facts and science.

The most disturbing part, and why we object to this— and Paul alluded to it—is the fragmentation that's going to take place across the province. Toronto wants to do it. Thunder Bay will want to do something else. We'll have this competition out there where everybody tries to outdo each other. That adds cost; it adds complexity.

I'd only leave you with one thing: When the six million people who drink beer in this province responsibly, legally, intelligently and for valid and legitimate reasons go into a beer store, 50% of what they pay, in large part thanks to the taxes imposed by the government of Ontario, is tax. I can't explain to that consumer why that price should go up to support something that isn't going to do the job.

The last point that I want to make, and I brought some materials with me, is that in 1990 our industry recognized some of the difficulties and some of the dangers responsible in FAS. It can be drinking and driving. The beer industry has been doing work for 25 years aggressively to get the message out. We have a big stake in people using our products responsibly.

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In 1990 we started a program with the Royal College of Physicians and Surgeons of Canada, and I'll pass it around. We put information in doctors' offices so that women would have legitimate information when they needed it, where they needed it, at a credible and a reliable source. We did this, we paid for it, we think it's the right approach; it's a targeted approach. It doesn't offer something for everybody; it addresses where specific problems are.

One of the areas—I recognize the sensitivity—one of the areas that has recently, I guess over the last couple of years, come forward as an area that needed some work was the native community. Two months ago the beer industry in Canada, together with the native physicians association of Canada, launched a campaign to get the message to people about responsible consumption and what drinking is and what it should be and what it shouldn't be.

This is the approach that needs to be taken; not general signs that do not—I'm particularly impressed with the

amendment which says you can't actually address any of the specific problems that are out there.

The Chair: Mr Westcott, are you done? As I said before, we have six other groups who would like to come forward, and we do have some time constraints.

Mr Westcott: Okay, I'll stop there. Thank you.

The Chair: We have Carmi Cimicata next.

Ms Carmi Cimicata: I'm grateful for the opportunity to address this committee on Bill 79. As the executive director of Bacchus Canada, a national alcohol awareness organization that works exclusively with university and college students based in Toronto, I have a personal interest in this city's alcohol policies. In fact, I've been an active member of the city of Toronto's alcohol advisory committee since its inception. I think a lot of people don't even know that the city of Toronto has an alcohol advisory committee and most of the people at this table and the people who are speaking after us are also members of that committee.

My opposition to this bylaw is twofold. Firstly, alcohol warning signs have never been clearly proven to be effective and therefore I feel that they would be a waste of taxpayers' dollars, which could be redirected to better and more effective prevention efforts.

Last year the city of Toronto passed a bylaw mandating that signs be posted in all licensed premises, warning about the dangers of drinking during pregnancy. In the wake of the ensuing controversy over this bylaw, city council formed the Toronto Alcohol Advisory Committee. It was my understanding when I joined this committee that the city was genuinely interested in addressing alcohol issues and would use the committee's work as a guide for future policy.

After one year, and no new alcohol initiatives yet from the city, we now have this bill before you. It's interesting that the city is here but the city's alcohol advisory committee is not. Instead of just one warning sign, city council is now asking the province for the power to force licensed establishments to post one or more signs warning about the health risks associated with alcohol.

My organization has done a considerable amount of review and reading on the issue of alcohol warning signs and labels. Our position at the time of city council's original FAS warning sign debate, and one we are even more convinced of today, was that alcohol warning signs are not an effective way to combat alcohol abuse.

The 1989 National Alcohol and Other Drug Use in Ontario survey, conducted by the staff from the Addiction Research Foundation, reported that drinking in bars, taverns or restaurants accounts for only 28% of total drinking in this province. The majority of drinking takes place in private settings. Unless the city next decides to mandate warning signs on the doors of everybody's house, it's highly unlikely that the messages will ever reach the majority of the people in the city.

Perhaps more importantly, I'm against making the hospitality industry, particularly licensed establishments, responsible for educating people about health risks. Why aren't we legislating the medical profession before the hospitality industry?

At a lecture on foetal alcohol syndrome at the University of Toronto last year, we asked Dr Ernest Abel, generally regarded as the world's foremost expert on FAS, to give a detailed overview of the FAS and discuss prevention strategy. This is what he had to say about warning labels:

"The more messages we are bombarded with, the more likely we are to ignore them. There are messages out there for everything, the dangers of bubble baths to the dangers of smoking to the dangers of X, Y or Z. After a while people stop paying attention."

Just as smokers are not affected by the warnings on a package of cigarettes, the problem drinker or alcoholic will not be deterred by a warning sign. It does not make any sense then for city council to direct any more funds towards signage.

As an educator, I'm constantly hearing people say, "If we just save one life," and the question I'm constantly responding with is, "What if you're hurting others?" In particular, I wish the Hospital for Sick Children was here, because after the FAS sign went up in Toronto bars, the Hospital for Sick Children's mother-risk line was inundated with calls from women who are now worried about their pregnancy and the risk to their unborn child because of the sign they had seen.

I guess with Dr Abel's lecture in my mind, I'm not against warning signs, I'm against signs that don't work. The issue of signage is not whether it's good or bad in itself. If you're doing something, do it right, but do not expect too much from the signage. If you have limited resources, don't spend them that way on the signage because they won't work.

We know that the city of Toronto's financial resources are indeed limited. That's why, as an alcohol education organization, Bacchus cannot support the city of Toronto spending tax revenue on more warning signs when there are so many other more effective prevention alternatives out there. Thank you.

The Chair: Thank you, Ms Cimicata. I would ask if the three people who have presented so far could relinquish their seats. We have Jane Meldrum from Mothers Against Drunk Driving, Margaret Sprenger, Fetal Alcohol Support Network and Norman Giesbrecht from the Addiction Research Foundation. I'm going to be ruthless at this point with time.

I am going to make sure that the microphones are cut off after two minutes, because we have a few other members who wish to speak. We still have three members at this point who wish to ask questions of a rather large group of people. I know there's going to be slippage as far as time, but in order to get this done in a reasonable manner, I'm sorry, I'm going to have to impose some limits.

Ms Stefaniak, if you would please start.

Ms Diane Stefaniak: Thank you for giving me the opportunity of sharing with you the concerns of our members and how this proposal will affect their business. I am Diane Stefaniak, executive director of the Ontario Hotel and Motel Association. We represent licensed operators, the majority of whom are small businesses

throughout the province of Ontario.

Our members recognize the need for responsible service of alcoholic beverages. We did not wait to be told that we had to have mandatory service training programs. OHMA took the lead and introduced a responsible server training program back in the 1980s, and today we are working with our colleagues in the hospitality industry to produce an even better program. I'm going to take Jan's lead and pass this newsletter out that will give you an idea of what we are doing to help this responsible service.

The hospitality industry creates jobs. I'm sorry, am I interrupting conversations or should I wait?

The Chair: No, we're not paying appropriate attention; that's our fault, not yours.

Ms Stefaniak: Thank you. The hospitality industry creates jobs in manufacturing, agriculture and, of course, service.

We argued against the placement of the signs warning pregnant women about drinking alcoholic beverages. This was because we felt that the program was not properly targeted and that the signs would not solve problems. I'd like to know today if there are statistics available on the success of these signs, and those statistics are in Toronto. I feel that awareness does not prove that they were effective.

I also should comment on Carmi's comment about the calls to the hospital. Those calls were from women that were pregnant who had taken only one drink and were contemplating abortion because they were afraid that they had one drink and they were going to hurt the baby. This is why we felt that it put undue worry into the minds of these people.

The Chair: At that point, Ms Stefaniak, I'm going to have to stop.

Ms Stefaniak: Is that with the interruptions that I have to stop?

The Chair: Actually, yes.

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Ms Stefaniak: I would just like to say I strongly oppose it. I have to add, I've sat in on meetings and I have found committees very rude. I have found that when we speak in opposition, we're cut short. When we speak in favour, we're allowed to speak.

The Chair: Ms Stefaniak, if I may respond to that briefly, so far the presenters for your side of the equation have had as much time, in fact more time, than will probably be allowed for the other people at this point. So I don't think that comment is in fact appropriate.

Mr O'Neil: Madam Chair—

The Chair: Mr O'Neil, I'm sorry, we do have some other presenters.

Mr O'Neil: On a point of order: This is an important issue, and I think that we have to listen to some of these people. Could we not sit past 12 o'clock?

The Chair: We will be, Mr O'Neil. There is no doubt that we will be. If the members are unanimous to sit here until 1:30, that is, of course, another matter. But I suspect that you have some calls to make—I know I do—as well

as other orders of business that have to be taken care of. Under the circumstances I think it is wise to try to stick as closely to the allotted time for the committee as is possible. I suspect you agree.

Mr O'Neil: But the Ontario Hotel and Motel Association is a very important tourism group. We're going to have some of these other people who are either going to be for it or against it, and I'd like to see a little leeway given to give some of these people on both sides a little more time. I know, as a committee member, I'm prepared to sit here a little longer if we have to.

I realize the job you have in trying to keep within time limits, but why don't you put it and see if the rest of the members are willing to—you know, to cut somebody off after a couple of minutes is not really fair, an organization like theirs. Other people are going to be listening too.

The Chair: We have another five groups to listen to as well as asking questions and you are one of the questioners. We're trying to give everyone a fair bit of time.

I would ask Mrs Meldrum to make her presentation.

Mr O'Neil: Madam Chair, you haven't really answered my question. I don't believe that—

The Chair: It's now almost seven minutes to 12 and we have five other groups to go through, plus your questions.

Mr O'Neil: Can we extend the time that we're here?

The Chair: We will be here past 12. There is no doubt that we will be here past 12. It depends on your questions and how much time the members take up as to how much longer past 12 we will be sitting here.

Mr O'Neil: Well, I don't believe it's being quite fair.

The Chair: Mrs Meldrum, if you would please—

Mrs Jane Meldrum: I have to agree with you, Mr O'Neil, and also object to all of a sudden a two-minute limit being put on speakers where other speakers were allowed. While you did bring up the fact that there was a time limit, no time limit was mentioned nor the length the time limit would be.

The Chair: In fact the clerk informs me she has informed a number of the people who will be making presentations that the presentations were to be brief and were to take up to about two minutes. I interrupted previous speakers and asked them to conclude their remarks. They took longer.

I apologize to all of you. I probably should have shut off their microphones sooner. But the reality is, under normal circumstances, we would be leaving at 12 o'clock, and under the circumstances, we will be sitting longer.

I would ask everyone, keeping the concerns of time uppermost in their minds, if we could keep the remarks on point, brief, so that we could get to the questions and get to the vote and move forward. So, Ms Meldrum, if you would please make your remarks.

Mrs Meldrum: Thank you. My name is Mrs Meldrum and I'm from Mothers Against Drunk Driving. I'm quite intimidated being here as a speaker because I'm not a public speaker. But I come here with perhaps a side that has never been presented to you, and that is the

personal tragedy of drinking. Our families are the victims of drunk drivers, as you know. I would like to tell you two personal stories that start off the trauma of a family hit by the alcohol causation.

A father is told that his son and wife have just been killed by a drunk driver. He goes to a small local Ontario hospital to identify the bodies. The morgue in a small Ontario hospital does not meet TV standards. Those bodies have been wheeled into a small side room.

When they arrived there, there was an instant rush and the nurses said, "Give us a few minutes to wipe away the blood to make the bodies more presentable." When they got into the room, the blood was wiped away, but what they could not wipe away was the look of horror on those two young people's faces as they must have seen this car coming and killing them both instantly.

I was saved the horror of having to identify our son's body, but when I went to the hospital it was to overhear a nurse saying to our son's co-worker that we would have to be prepared for what we were going to see in that room. We asked Graham's co-worker if he would take on the task of identifying Graham and he volunteered to do that. They asked us if this was all right with us because they thought we shouldn't see our son's body, and we never did say goodbye to our son.

Three years later we did get the autopsy report and when we read it, it was to learn that Graham died with massive head injuries, broken ribs, broken arms, liver and spleen ruptured, legs broken, a crime so violent against another human being by a criminal who was impaired and driving a car.

There is such a personal side to this, and I'm asking you, as representatives of citizens of this country, to please do something. If it's a sign in a bar, for God's sake let us to do it. Since I left home this morning, another Canadian family has been put through the hell of one of their members being killed by a drunk driver.

This is the only statistic I give to you today, and I plead with you that if this will somehow stop not only the drinking and driving, the foetal alcohol syndrome, the wife battering, the husband battering, all the social ills that are connected with alcoholism, please pass this bill.

The Chair: Thank you, Mrs Meldrum. You are an excellent public speaker. Mrs Sprenger.

Mrs Margaret Sprenger: I represent the Fetal Alcohol Support Network. I speak from the front lines. I speak for the parents who have adopted these children. I speak for birth parents.

Our mandate is, first of all, to prevent alcohol-related birth defects; our second is to raise awareness of the damage suffered by persons in our society which is brain damage. It is lifelong. There is no pill that anyone can take to restore them to normal. We do not count our tragedies in deaths. We count our tragedies in a lessened quality of life.

This knowledge is in the hands of researchers and members of the health care professions. This knowledge must be gotten out to the general public. It is not fair that a certain segment of our society should possess this knowledge. Signs in public are one of the means of

getting this knowledge to the public.

You might say that people can find these facts out from their doctors, but the women and girls most in danger probably will not see a doctor until the later months of their pregnancy. Therefore, the only means they have of getting this knowledge is through public signs or labels on bottles.

The cost of maintaining a person with full-blown foetal alcohol syndrome for its lifetime is \$1 million. Considering the rate at which the children are being born and growing up to adulthood, we cannot afford it.

If signs were not effective, we would pull down all our traffic warnings and all our advertising. We know signs are effective. Alcohol-caused health and social problems warrant the posting of signs.

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The Chair: At this point, perhaps I could ask the two presenters who have made their presentation to relinquish their seats for Susan Bondy. Is she going to join you, Mr Giesbrecht?

Mr Norman Giesbrecht: I'm going to make the presentation.

The Chair: For both of you? Then I would ask Dr Korn from the Donwood to come forward as well. Mr Giesbrecht, possibly you could start making your presentation while we await Dr Korn.

Mr Hansen: Point of order, Madam Chair: It's 12 o'clock.

The Chair: I understand.

Mr Hansen: Do we have permission from the House leaders to sit beyond 12?

The Chair: I would ask for unanimous consent on behalf of the members.

Mr Eddy: Unanimous consent agreed. I'll speak for the Tories too; they're not here.

The Chair: Thank you, members. Please continue.

Mr Giesbrecht: Thank you for the opportunity to speak in support of enabling legislation regarding the posting of alcohol warning signs in places that sell or serve alcohol. I believe you have a copy of the text of our remarks in front of you.

The Addiction Research Foundation, by the way, is an organization of about 500 employees across the province of Ontario. It is committed to reducing the harm caused by alcohol through dissemination of our research findings, providing advice and guidance in community offices throughout Ontario, offering support for policy initiatives such as this one, and in general, making the public more aware of the hazards of alcohol.

In light of the damage caused by inappropriate and excessive drinking in our society, this is both innovative and important legislation and we congratulate our policy-makers for proposing the same.

Although the majority of adults in Ontario occasionally drink alcohol, we all know that alcohol is not a benign substance. It is not like bread or milk or breakfast cereal. It is a toxin that can cause problems, for example, even in small amounts, to the foetus, or to the inexperienced teenaged drinker taking too much, too quickly, or to the

adult who drinks regularly and is unaware of the increased tolerance or possible health risks.

Currently, there is a dramatic imbalance. If we consider, for example, our experiences over the last week, we could ask, how many advertisements did we see or hear encouraging drinking, whether they were specific beverage ads on TV or radio, in magazines or on billboards, or promotional notices on sponsored events? Now consider for the same period, how many messages did we see or hear which warned us about the risks associated with alcohol use? Clearly, the relatively few signs or warnings that are available are visually and numerically overwhelmed by effective promotional messages.

We recommend, therefore, that getting information to drinkers at the point of purchase of alcohol is an important information strategy as part of an overall prevention program.

To further support this legislation, we would like to present six additional key points:

(1) Many members of the general public are not well informed about the risks of drinking.

(2) The public has a right to know about the risks of drinking alcohol, which has been shown to be associated with a wide range of serious traumatic and chronic health conditions.

(3) Clearly, women's health issues are not the only cause for concern. In 1989, there were about 7,000 deaths overall in Ontario directly or indirectly attributed to alcohol consumption, with about twice as many attributed to men as women.

(4) A few studies in the United States focusing on warning posters and warning signs indicate that they effectively communicate information to viewers, particularly if the message is clearly displayed and enhanced by colours or icons. Some of this research also points to the increase in knowledge about the risks as the result of such signs, including among heavier drinkers, and with the intention to change behaviour.

(5) A large-scale U.S. national survey of about 4,000 cases reported last year by Lee Kaskutas and Karen Graves, focusing on warning labels, warning signs and media advertisements about drinking-related risks associated with pregnancy, found that those exposed to multiple messages were more likely to talk about the issues, and those exposed to all three types of messages were twice as likely to report reducing their drinking due to health concerns.

(6) In Ontario, surveys from 1989 onwards show that there is high support for increasing public awareness about the risks of alcohol: 72% supported this—warning labels, for example—in 1989, and 86% in 1992 and 79% in 1993.

In conclusion, therefore, we strongly support the legislation that increases public awareness about the risks of a range of alcohol-related safety and health hazards. We would hope that such legislation could be seen as complementing other approaches, including community action programs, increased law enforcement, other education programs and public-health-oriented alcohol policy.

The Addiction Research Foundation supports this

legislation and sees it as one important step among many that need to be discussed and taken.

The Chair: I would now ask Dr Korn from the Donwood Institute to make some brief remarks.

Dr David Korn: I'll make three brief points. May I introduce myself first. I'm David Korn. I'm a public health physician and the CEO at the Donwood Institute, a provincial resource for the prevention and treatment of alcohol and other drug-related problems, and I'm the former chief medical officer of health for the province of Ontario.

As indicated, alcohol is a prevalent substance that's part of the fabric of our society, but it is also, on the other hand, a major cause of both illness and disease in our province. I am supportive of the enabling legislation for the following three reasons.

I believe it is responsible. The city of Toronto is taking a responsible public health strategy to increase awareness of the risks associated with alcohol use. Fundamentally, what we all hope to do, I believe, is to assist people to have the information in order that they may make informed choices.

Secondly, this legislation, I believe, is compatible with the province's strategy for substance abuse and health in general. There are numerous pieces of legislation and policy initiatives over the past number of years in Ontario under the umbrella of a healthy public policy. Alcohol is a high priority of the Premier's Council. The provincial substance abuse strategy ranks alcohol high and, as well, the efforts have shifted towards prevention, health promotion and community decision-making.

Thirdly, I believe this is an appropriate piece of legislation because it in fact does empower local communities and municipalities, the city of Toronto, to take action. Public health has historically been a local issue in Ontario, so I think this is quite compatible with public health policy historically and currently within the province.

In conclusion, the city of Toronto has been and continues to be a leader in public health in North America. The proposal enables the city to proceed in a multidimensional local alcohol strategy and I hope you will support this effort. It is a complex issue, but I believe that on balance, by supporting this legislation, you will do more good than harm.

The Chair: Thank you, Dr Korn. On another committee we had a chance to visit your institution and were suitably impressed. At this point I am going to turn to Mr White for any comments on behalf of the relevant ministries.

Mr White: I have a number of comments from differing ministries. I will go over them, and then to the summary. Let me state clearly that while I have a personal position on this, which I will speak to later if I have the opportunity, my position is not reflected here.

Firstly, the Minister of Health recommended that this act be amended so that it reflects a general applicability, that the issue of pregnancy alone should not be targeted, and I am certainly pleased to see that is the case, that the general health issues were addressed in the legislation as opposed to the specific foetal alcohol syndrome alone.

The Attorney General's concerns were dealt with.

The Minister of Consumer and Commercial Relations, to whom both the LLBO and LCBO report, does not object.

The Ministry of Municipal Affairs is neutral and the Ministry of Health—as I mentioned, I have two representatives from that ministry—is not concerned with the issues that were brought up before.

Interjections.

Mr White: No. Basically, the Ministry of Health is supportive of the legislation. As a government, we are either neutral or, in the case of the Ministry of Health, supportive of the legislation.

1210

Mr Tony Ruprecht (Parkdale): I have a question. I'd like to find out from the parliamentary assistant whether the various ministries had discussions with the city, either with Kay Gardner, who is still here I think, or with Dennis Perlin or the chief officer of health. Has there been some discussion, especially in terms of the letter by the Minister of Health?

Mr White: I believe there was some discussion and there has been some dialogue with the city. One comment I should make: The Ministry of Culture, Tourism and Recreation I believe should have been informed, but there is no comment here from the Ministry of Culture, Tourism and Recreation. The Ontario Restaurant Association and the Ontario Hotel and Motel Association put forth views which are very considered concerns for how that would affect their industry.

The Chair: I just want to point out to other members who may not have gotten quite to the end of their package that there is a letter there from the Minister of Health in support of the legislation. If you would like to peruse your documents, you will see it there.

Mr Ruprecht: That was precisely one of my points. I'm going to vote in favour of this, but I'm trying to determine—the minister's letter says here that it should be expanded. Perhaps I can get the solicitor from the city of Toronto to answer that if he can. Maybe Drummond can answer that. The Minister of Health says she would support this legislation if it would be expanded. There are warning signs I see here, both from the city of Richmond and the city of Toronto: solely the question within the jurisdiction of pregnancy and harm to babies. Has that been expanded now or is that a problem for you?

Mr Perlin: That's not a problem for the city. We would be happy with the bill being amended to provide for a larger program than just aiming at FAS.

Mr Ruprecht: There's no problem with that?

Mr Perlin: No.

Mr Ruprecht: If that's the case, let me just make a brief comment on this, or can I get a chance later? That was one of the questions. Go ahead and I'll get on it later.

Mr O'Neil: Of course, the contradiction in this whole issue is that we're talking about the evils of drink and all these other things related to it, yet the federal government, the provincial governments, the municipal govern-

ments and in this case the city of Toronto are all for bringing in any fees or any income that will help the coffers of whatever particular government they're dealing with.

Although I support anything that is going to deter people from drinking and keep healthier lifestyles—that's a great thing and likely the intent of the city of Toronto is towards that area—I would not support this particular bill, because I don't think the city of Toronto should be involved in this particular case, in the putting up of these signs. You're going to be into the signs, you're going to be into inspectors, you're going to be into justices of the peace enforcing them. You get into all of these things.

As far as I'm concerned, the next thing that happens is it goes from the city of Toronto to every other municipality in the province of Ontario. Other cities and towns and villages get into the same act. They've all got to enact legislation. They've all got to have people who are going to enforce it, check it out and all these other things.

As has been mentioned by some of the people in the tourism industry, I think it would be better if you gave it to somebody like the Liquor Licence Board of Ontario, which would set a uniform policy throughout the rest of the province and would say, "For every liquor establishment or every establishment serving drinks, these are the things you should do." For some of these groups that made presentations today, I think those presentations should be made to the liquor licence board or the liquor control board, and have a uniform policy throughout the rest of the province.

We're just getting into more red tape, maybe some political avenues on this. I don't think the city of Toronto and other municipalities should be in it. Let somebody like the province of Ontario, through the liquor licence board—I'm very surprised that no one from the Ministry of Consumer and Commercial Relations, which looks after the liquor licence board or the Liquor Control Act, made recommendations and said, "We will listen to these groups," or, "We'll listen to the presentations or the suggestions from the city of Toronto or other municipalities as to how they would like to see this regulated—signs going up in washrooms or in liquor establishments." Let them handle it. You're going to get into so much red tape and confusion and the whole works.

I'm afraid that although I support the intent of this bill, I personally will not support it because I think it should have been dealt with, and I'm very disappointed at the Ministry of Health and the Ministry of Consumer and Commercial Relations for not saying, "We have agencies and boards set up to handle this and we'll listen to these groups and we'll go ahead and do this."

I should ask Mrs Gardner, did you make any presentations to the liquor licence board or go to it and say, "Could you handle this for us?"

Ms Gardner: No, we did not, because the role of the board of health is actually to promote health issues. I'm a member of the board of health. Our medical officer of health is here and perhaps he can answer this too. But our role is to promote health issues in the city of Toronto and we've been engaged in doing that.

Mr O'Neil: I don't disagree with that, but again what I'm saying to you is, rather than get into the red tape with every municipality throughout the province of Ontario, maybe make that presentation to the liquor licence board or the liquor control board, get them to bring in the legislation that will make this, rather than just benefitting the people in the city of Toronto, benefit, really, all the citizens of the province of Ontario.

Ms Gardner: That's our role as a department of health at the city of Toronto.

Mr O'Neil: Right, but again, if you were to make that recommendation to the liquor licence board or the liquor control board, you would benefit not only the people of the city of Toronto but also the people of the rest of the province of Ontario. That's the way I think it should be handled.

Ms Akande: There are a couple of things I'd like to say. Number one is that this legislation in no way decreases the provincial responsibility at all. It just simply adds to it. I think that cities or municipalities enact or initiate legislation as they see it required according to the situation with the population they serve. With the initiation of this, from Toronto's perspective, it's obvious that there is an identification that this information is necessary in this particular city. I don't know whether this is something we brag about but it's certainly a reality of our situation.

I'm quite happy to indicate, although they'll be moved by my colleague, that the amendments also speak to the fact that no one particular group is focused on. The presentation that was made by, I believe, Mr Westcott—the poster is most attractive and certainly would attract the attention of the particular community group, but so would it set a stereotype. A stereotype is implied that if the poster focuses on a particular community, then that community is a group of people for whom alcoholism is a particular problem and it doesn't relate to other people, and certainly a wider point of view is necessary and is also true.

I was also interested in your comment that many of the alcoholics are foreign and can't read English. I didn't know that there was a positive equation between foreign birth and illiteracy and alcoholism, and I would hasten to say that it isn't one that we would want to communicate.

The other thing that I'm most concerned about is that one of the pieces of information is that too many signs don't get the message across, that people ignore them, and yet the very fact that those women called in, even if it was only to say, "Look, I've had two drinks and what's the problem?" indicates that they didn't have enough information from their doctors or whomever to tell them that one or two drinks wasn't something about which they should be very concerned.

I'm very supportive of this legislation. Anything that emphasizes a message that most of us cannot hear too often is a good thing, and that's something for which I and I know my colleagues and my neighbours would be quite happy to pay additional taxes.

1220

Mr Gary Wilson (Kingston and The Islands):

Actually, Mrs Akande said a lot of things that I would say to this. I guess I would like to say to my colleague from eastern Ontario, Mr O'Neil, that I don't see how this impedes other communities being involved, or why, if it's been identified in Toronto, we should delay this kind of legislation in Toronto to wait for other communities to come forward and get the momentum for provincial legislation.

Mr O'Neil: On a point of clarification: I mentioned that I thought it was a job that the Liquor Licence Board of Ontario or the Liquor Control Board of Ontario could coordinate this throughout the rest of the province and bring in these health aspects and improvements in health by having it coordinated by them, and not having it spotted here and there and everything else and go to all the work.

Mr Gary Wilson: The point I was trying to make is that the people of Toronto, the health board, has identified this as an issue they'd like to move on, and I think that by your approach it would delay it for them.

The Chair: I have Mr Ruprecht on the list again. Mr Ruprecht, and may I remind you to be closer to your mike.

Mr Ruprecht: Yes. Thank you, Madam Chair. I think what Mr O'Neil is looking at—and I think he's got a point—I'll support this legislation, but let's clarify this here, and that is the abrogation of the Ministry of Health and other ministries in their responsibilities here.

In terms of process, Madam Chair, it's very easy to see that we've got to have an overall provincial strategy, and what's happening, especially in this committee, Mr Wilson, is we're going to have other municipalities coming and bothering you every second day of the week, saying, "We've got to come through here and ask for new legislation." Obviously it's going to be increased red tape, and I think that this whole business, this whole issue, should have been dealt with probably in a different way, and still can be done this way.

I would appreciate very much if each ministry that is responsible, even to some degree only, comes up with a strategy and coordinates it so that we don't have, as in every other case, different municipalities coming up here and requesting the same issues, taking up the committee's time. So I agree with Mr O'Neil on this.

The point was made by Mrs Akande already, that whenever we are able to increase the awareness of the dangers—I mean, that ought to be supported, obviously—and finally, let me speak to this issue of the compatibility that the person from the Donwood Institute indicated. Sure, there is a dovetailing of activity, but again, what this indicates to me is a lack of responsibility by the Ministry of Health, and that is, on the one hand, they have left the issue of awareness to be shifted to the municipalities, saying, "Well, if you want to handle this, okay, you go ahead."

That means that what the Ministry of Health has done previously, instead of coming up with a plan to coordinate this—and I'm not being partisan here; this really speaks to it, okay?—is to destroy the coordination we've had previously. Now, you've had the whole drug

coordination, the drug secretariat that was established, which was in fact designed to come to grips with the problem throughout each ministry and to coordinate that activity, and what has happened here? That coordinated activity was destroyed, and so now each ministry is now bumbling along in its own fashion to come to grips with this awareness, and that's precisely been the problem.

So while I will be supporting this with this government, obviously, I'd like in addition to recommend to this committee, and to anybody else who is willing to listen to this, that the coordination must be placed back where it was, that there's got to be a body here in the province to establish once and for all that we need to discuss this in a way that makes sense throughout all ministries and not just to one ministry and another ministry and whenever there's a crisis coming up, we're going to leave it to the municipalities. That obviously cannot be our policy.

So while I will be supporting this in the city of Toronto, I would request that various ministries get back on track and maintain an overall strategy and policy where we can coordinate it, either within a secretariat or within one ministry.

The Chair: Thank you. You're obviously going to generate a whole lot more conversation.

Mr White: First off, I would like to make a comment in regard to the provincial government's role in substance abuse, which is strong, which is keen. The Ministry of Health is the lead ministry in regard to the substance abuse strategy. We have, in the past, dealt with these issues in a number of different ways. Certainly both the Ministry of Health and public health units at a local or regional level have all taken part in that. I won't go into great detail about the Ministry of Health's cabinet-informed agenda; however, what I would like to suggest is that I don't think it is in the purview of this committee to take the Ministry of Health to task about the quality or the nature of their strategy. What we're dealing with is a private member's bill with the city of Toronto.

We have had a lengthy discussion with our last presentation about how important it is to allow municipalities to make up their minds about programs they want to put into place. The Ministry of Health finds this program to be not dissonant with its own but in fact consonant with it. They have no objections, and they actively support it. The other ministries have no difficulties with it, including the LCBO, the LLBO and the Ministry of Consumer and Commercial Relations.

We understand, as a government, how this legislation, this private member's bill that the city of Toronto, not the Ministry of Health or the province of Ontario, is putting into place will affect this local area. We understand that it will have an effect for the tourism industry. However, this is something which the city of Toronto is asking for, not the Ministry of Health or the province of Ontario, and I think it is certainly consonant with the remarks that we have previously had at this committee and as part of our discussion at Municipal Affairs, to allow municipalities to move ahead with their local policies as long as they're not dissonant with our province's.

We have seen that these policies are not dissonant with the policies of the province; they are consonant with them

and in fact have the support of the Health ministry, so I see no reason to continue to debate about who should or should not be continuing with the posting of signs.

Mrs MacKinnon: You'd better chalk this one up, Mr O'Neil, because I happen to agree with you: I support the intent of the bill, but I feel that we are not the people to say, "You will put up signs," or "You won't put up signs."

Let's go back further than the liquor control board—which I think is good; they should be in on this act, too—but let's go back further and let the manufacturers, like we're asking the tobacco people to do, put the warning sign on those various bottles, cartons or whatever. Let them do it. I think that they need to be part and parcel of this.

I also happen to believe and know full well that when it comes to pregnancy, the health of the child starts long, long before conception, and the father has to be involved as well as the mother. It's not just the health of the one but the health of all of them. It's got to go back further than that.

But as I said, I agree with you: Let the liquor control board be the coordinators, but let's get back to the manufacturers and tell them to put the warning labels on.

Mr Hansen: I have to agree with Mr O'Neil.

Mr Eddy: We'll soon have enough votes.

Mr Hansen: But then I disagree with Mr Ruprecht, to the point that he could have brought in a private member's bill in the House which all members of the assembly would have supported.

Mr Gary Wilson: You just lost my support, Hugh.

Mr Ruprecht: What are you saying? You destroyed the anti-drug secretariat. You dismantled it.

The Chair: Order, please.

Mr Ruprecht: It was in place.

Mr Gary Wilson: You've lost the support.

The Chair: Mr Wilson and Mr Ruprecht, please. Let Mr Hansen put his comments on the floor.

Mr Hansen: I know the Minister of Health had sent a letter to the city of Toronto, and it said the city would be offering significant leadership and be in the forefront of change with regard to municipal alcohol policies in Ontario and perhaps in Canada.

1230

Sitting on this committee for three years, I've seen the city of Toronto come forward with a lot of good pieces of legislation that can be used in the other parts of Ontario. I think we have to applaud the work that the city of Toronto has done in all different areas. If we are able to have a pilot project here in Toronto, let's let them work out all the little faults rather than the provincial government all at once across the province of Ontario. So on a smaller scale, let's call this a pilot project, let's vote yes and get on with it.

The Chair: Ms Akande, the wrapup and we will then, I think, turn to a vote.

Ms Akande: Thank you.

Mr O'Neil: Did you agree with me or not?

Ms Akande: He's learned to speak parliamentary talk. This is it.

Interjections.

The Chair: Order.

Ms Akande: I'm sorry.

The Chair: I think we'd like to get this wrapped up.

Ms Akande: Thank you, Madam Chair. They say that one's objectivity—

Interjection.

Ms Akande: Mr Ruprecht, please, I have the floor. They say that one's objectivity increases with their distance from the fray. So does one's righteousness increase with their distance from the fray.

I want you to recall that we are not reducing any of the responsibilities of the province. We are—

Mr Ruprecht: You've destroyed the anti-drug secretariat. How can you say this?

The Chair: Mr Ruprecht.

Mr Ruprecht: She can't go on talking like that.

The Chair: Mr Ruprecht, order, please. She has the floor.

Mr Ruprecht: She can't talk like this.

The Chair: She has the floor.

Ms Akande: We are not recommending that the province be less involved or less coordinating. In effect, I'm applauding the city, perhaps because I live here, for the fact that it is locally responsive to what it has identified as a real need in this city. How unwieldy it would be if a local municipality or a city found that it had a problem and had to wait until the province coordinated something which might add the additional resources that were necessary in the city. Not only would it be unwieldy, it would be ridiculous and then truly an additional cost. I ask that you support this.

The Chair: I am going to put the question. Are members prepared to vote?

Mr O'Neil: Could I make one suggestion? That is that, having listened to some of the comments that have been made by the members, and recalling what I said, if it were seen that this was brought forward as a bill by the city of Toronto sort of as a pilot project to see how it works and we get some feedback from some of the organizations that are here after it's been in effect for a certain while, I would be prepared to support it.

If it is successful in the city of Toronto, then the Ministry of Health and the Ministry of Consumer and Commercial Relations should have discussions among many of the people who are here in the room today and the different groups to see whether the liquor licensing board or the liquor control board could look at those results and see about coordinating it throughout the rest of the province.

The Chair: Now just a moment, please. I want some clarity. Are you objecting to a vote on this? Do you want to see it deferred?

Mr O'Neil: No, I'm not. I'm saying that I think the move is a good one. I don't like the way it's been done; I think it could have been coordinated differently by the

ministries, but I think it's a move in the right direction and I will be prepared to support it. Hopefully, if it goes into effect, if it is passed, I would ask that the ministries monitor it to see whether it could be used throughout the rest of the province, coordinated by the liquor licensing board or the liquor control board.

Mr Ruprecht: I have an amendment to add, Madam Chair. Is this the appropriate time or not?

The Chair: No, it isn't. As we are going through the vote, it is. I think, Mr Ruprecht, you know that, having been part of this committee for some time.

At this point, since I did not hear a clear yes, I am going to put the question again. Are members prepared to vote? Agreed. So we are voting on Bill Pr79, An Act respecting the City of Toronto.

Shall section 1 carry? Okay. While we did have a no vote, we do have a majority in favour.

Shall section 2 carry? No, we have an amendment.

Mr Gary Wilson: I move that section 2 of the bill be amended by adding the following clause:

"(a.1) for prescribing a program governing the posting of the signs."

The Chair: All those in favour? Agreed.

I believe that you have another one.

Mr Gary Wilson: I move that section 2 of the bill be amended by adding the following subsection:

"Restriction

"(2) A bylaw under subsection (1) shall not permit signs that warn of only one health risk, or of health risks to only one class of persons, unless such signs are part of a program that uses different signs, each warning of one or more health risks or of health risks to one or more classes of persons."

Mr Eddy: I have to ask a question about that. I don't know how that affects the bill. Does that not change the application?

The Chair: I would ask one of the bureaucrats from the Ministry of Health, or Mr Perlin, either way.

Mr Eddy: Yes, that would be helpful, if you could explain to me, does this change the bill substantially?

Mr Perlin: We've indicated previously that we have

no problem with the bill being amended for a broader program of the health signs. As I indicated, you note the original application was strictly dealing with pregnancy. The suggestion back was that our sign program could be larger than that. The city is quite prepared to proceed in that way with our health education program.

The Chair: I will put the question again, then. Members have heard the proposed amendment. All those in favour of the amendment as read? Carried.

Shall section 2, as amended, carry? Carried.

Shall section 3 carry? Carried.

I believe there is an amendment to section 4.

Mr Gary Wilson: I move that section 4 of the bill be struck out and the following substituted:

"Obstruction

"4. A bylaw passed under section 2 may provide that no person may hinder or obstruct an inspector lawfully carrying out the enforcement of any bylaw passed under that section."

The Chair: All those in favour, please? Carried.

Shall section 4, as amended, carry? Carried.

The amendment for section 5, please.

Mr Gary Wilson: Subsection 5(2): I move that subsection 5(2) of the bill be amended by striking out "by force, if necessary" in the fifth and sixth lines.

The Chair: All those in favour? Carried.

Shall section 5, as amended, carry? Carried.

Shall sections 6 and 7 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry?

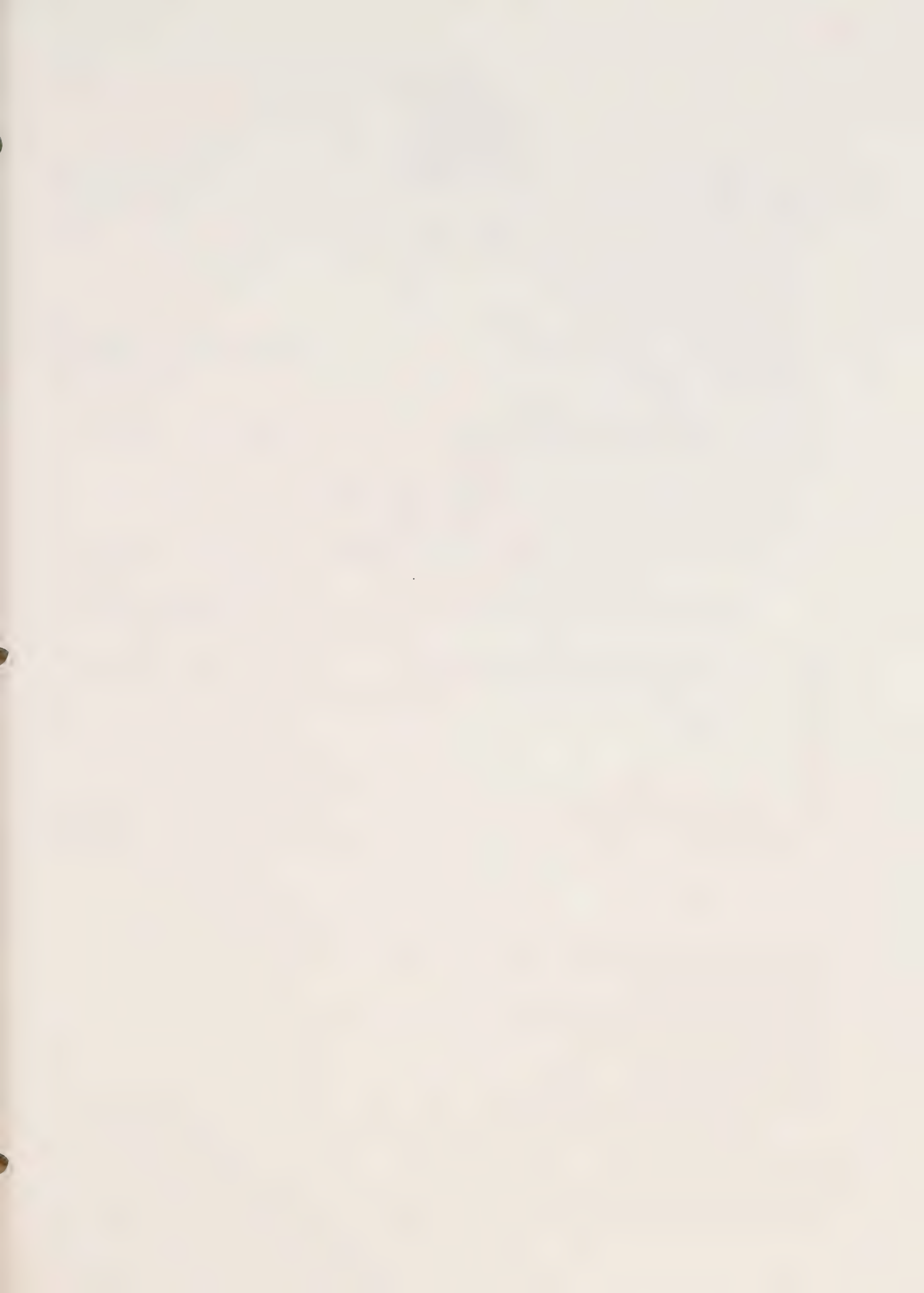
Mrs MacKinnon: No.

The Chair: We still have a majority. That's carried.

Shall I report the bill to the House? Agreed.

Thank you to all the participants. It has been, I know, a longer meeting than usual and I appreciate your indulgence and your patience. Thank you to the city of Toronto.

The committee adjourned at 1238.



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Mills, Gordon (Durham East/-Est ND)

***O'Neil, Hugh P.** (Quinte L)

Perruzza, Anthony (Downsview ND)

***Ruprecht, Tony** (Parkdale L)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Akande, Zanana L. (St Andrew-St Patrick ND) for Mr Perruzza

Martin, Tony (Sault Ste Marie ND) for Mr Mills

White, Drummond (Durham Centre ND) for Mr Hayes

Wilson, Gary, (Kingston and The Islands/Kingston et Les Iles ND) for Mr Fletcher

Also taking part / Autres participants et participantes:

Elston, Murray J. (Bruce L)

Ministry of Municipal Affairs:

Dhar, Satish, senior policy adviser, local government policy branch

White, Drummond, parliamentary assistant to minister

Clerk / Greffière: Grannum, Tonia

Staff / Personnel: Klein, Susan, legislative counsel



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Third Session, 35th Parliament

**Assemblée législative
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Troisième session, 35^e législature

**Official Report
of Debates
(Hansard)**

Wednesday 8 June 1994

**Standing committee on
regulations and private bills**

Chair: Christel Haeck
Clerk: Tonia Grannum

**Journal
des débats
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
REGULATIONS AND PRIVATE BILLSCOMITÉ PERMANENT DES RÈGLEMENTS
ET DES PROJETS DE LOI PRIVÉS

Wednesday 8 June 1994

Mercredi 8 juin 1994

The committee met at 1007 in committee room 1.

CITY OF OTTAWA ACT, 1994

Consideration of Bill Pr97, An Act respecting the City of Ottawa.

The Chair (Ms Christel Haeck): Ladies and gentlemen, I'm going to deviate slightly from the agenda and call Mr Grandmaître first, relating to Bill Pr97, An Act respecting the City of Ottawa.

Mr Bernard Grandmaître (Ottawa East): Thank you very much for accommodating us. On my right is the assistant city solicitor, Edythe Dronshek.

Bill Pr97 is a very short bill. It would amend the Public Libraries Act to ensure that one person recommended by the public sector and one person recommended by the Roman Catholic sector of the Ottawa-Carleton French-Language School Board are appointed as members of the Ottawa Public Library Board.

Back in 1989, as you know, the French-language school board was created, the second one in the province of Ontario. The Public Libraries Act wasn't amended at the time to permit the appointment of a member to the Ottawa Public Library Board.

The addition of these two people will simply increase the number of members on the board. It will not eliminate any present members on the board. If you do have any questions, Ms Dronshek will certainly try and provide you with all the answers.

The Chair: Ms Dronshek, did you wish to add any remarks to those made by Mr Grandmaître?

Ms Edythe Dronshek: Yes, I do. City council has looked at this situation a number of times and written many of the ministries requesting that this public sector and the other sector obtain representation on the Ottawa Public Library Board. The position was that the actual Public Libraries Act should be amended.

When none of this happened, the council has requested on several occasions that the general legislation be amended and in 1993 instructed us to come and get a special act in order to give these people representation on the Ottawa Public Library Board.

The council takes the position that the Public Libraries Act deals with the school board representation in total, and therefore the council does not want to use its citizen membership for the appointments of the school boards. It feels that in fact the school boards should be represented. They cover the 11 area municipalities in our region. They have jurisdiction in that area. There is a large number of francophones in our area, and they deserve representation on the library board.

The council is not asking to remove any of the existing library board members, and at the present time there are two members from the Ottawa Board of Education and one member from the Ottawa Roman Catholic Separate School Board. This amendment would permit council to appoint one person from the public sector of the Ottawa-Carleton French-Language School Board and one from the Roman Catholic sector or their successor boards when they're named after the regional reform regulations have been put in place.

The council feels this is important. The two school sectors have asked for this on numerous occasions, and they regret that they are not able to be here today. The public sector has forwarded an additional letter of support indicating that it is very desirous of obtaining membership on the board.

We take the position that this is really a local issue and the local council has asked that this membership and appointment be dealt with in this way.

The Chair: Thank you, Ms Dronshek. Mr Hayes, on behalf of the Ministry of Municipal Affairs, and possibly other representative ministries, may have some remarks.

Mr Pat Hayes (Essex-Kent): The Ministry of Municipal Affairs does not support the proposal. As was mentioned, appointments to local boards are a local matter; council can and should adopt its own policies for selection of the boards; and it is not consistent with provincial policy of enhancing local accountability. It's also not an appropriate matter for provincial legislation, and we've turned down similar requests—for example, the city of Toronto. It's really unnecessary legislation since other methods are available to the city if it wishes to restrict its board selection.

I also refer to a letter the minister wrote to the city solicitor on February 17, 1994. In that letter, it reads:

"As you are aware, in addition to representation from the largest public and separate school boards, the Public Libraries Act provides authority for the appointment of members of the general public to a public library board. This gives council the discretion to include in its appointments members representative of community interests as it considers appropriate."

While we appreciate council's concern for the francophone representation on the public library board, there already exists sufficient flexibility for council to appoint members of the French-language board to the library board, and also the Minister of Culture, Tourism and Recreation is not convinced that legislation to compel such is really necessary.

We have a representative from the Ministry of Municipal Affairs, Peter-John Sidebottom, and also Sheila Larmer from the Ministry of Culture, Tourism and Recreation, if they choose to make comments.

The Chair: I forgot one point, and it is an omission. Do are any other interested parties who, wish to speak to this bill at this time. Seeing none, Mr Grandmaître.

Mr Grandmaître: In response to the parliamentary assistant, some 18 or maybe 24 months ago, Mr Hayes, I had written to the minister, Ms Haslam, at the time that this was brought to my attention. I was told to go ahead with those changes and that's why I encouraged the city of Ottawa to come forward with a private member's bill. So can I ask the representative of the ministry, why did you change your mind?

Ms Sheila Larmer: I'm looking at the letter written by the Honourable Anne Swarbrick to Mr Douglas Wallace, acting city solicitor, dated April 26, 1993, in which the minister states:

"The current act, while stipulating that at least the two largest school boards must be represented, provides flexibility for the municipality to determine the ultimate composition of the library board. It is the municipality's right and responsibility to decide what other representation is most appropriate for their area.

"Therefore, I encourage the city of Ottawa to use the discretionary authority already available to it to arrive at a composition for its public library board that will be representative of community interests. I am sure that future city councils, as elected representatives, will be motivated to ensure a continued appropriate representation."

We did not interpret this as saying, "Go ahead with private legislation."

Mr Grandmaître: I was referring to the previous minister.

Ms Larmer: I'm going to have to see if I have that letter. Can you tell me the date of the letter?

Mr Grandmaître: Oh, God, I forget the date. How many ministers did you have in that ministry?

Ms Larmer: Quite a few.

I'm sorry, I can only speak to the position of my current minister on this, just as it is.

The Chair: We have a couple of other questioners on the list. The first is Mr Fletcher.

Mr Derek Fletcher (Guelph): You have people who are from the public board, who sit on the board. How are they selected? Is there legislation so that they can be selected?

Ms Dronshek: Yes, the Public Libraries Act specifically deals with compositions from the school boards. This is why our council feels that it is not appropriate to use the citizen appointment area.

The act specifically says, based on the electorate, that we will have two members from the Ottawa Board of Education and one member from the Ottawa Roman Catholic Separate School Board. Based on the provision in the act, it divides it out with the number of electors and then it goes on to say that if you've got smaller

school boards, they're not entitled to representation. It is only the two major school boards in the public and the separate system that are entitled to be electors.

So in fact the act does address the situation that we have now where we've got this new school board, and it specifically provides that they don't get representation.

Mr Fletcher: What are the alternatives?

Ms Paula Kashul: I am Paula Kashul, counsel for the Ministry of Culture, Tourism and Recreation. Under the Public Libraries Act, I believe, for a city the size of Ottawa, the school board shall have not fewer than nine and not more than 15 appointments. Of those appointments, three have to come from school boards, and that's set out in subsection 9(3) of the act. That's what Ms Dronshek was referring to. The remainder of the appointments are entirely up to city council and at their discretion, so if they wanted to appoint from the French school boards, they could appoint more members. It gives them the total discretion for the remainder of the appointments.

1020

If they have 11 board members and you take three from that, they have eight that they can appoint whomever they wish. That's how it works, but three have to be from school boards. It's set out that the largest school boards have to be represented, but the smaller school boards could be represented the way the act is set up.

Mr Fletcher: Again, through Edythe, how come you came with private member's legislation?

Ms Dronshek: Basically, our position is that the act deals with the school board representation in total and it specifically denies the right to the smaller school boards. So in the spirit of the act, the school boards are already dealt with.

The government's position from the start has been that we should use our public citizen appointments to satisfy the needs of the school boards, and our council's position is no. The school boards are dealt with specifically in the act. Either amend the act or give us the authority to appoint these individuals. In fact, we have not appointed the members from the French-language school boards. They've been denied appointments because they don't fit within the general procedures for appointing citizens. We feel the school boards are dealt with in the act and the act should be amended to give this new board that was created after the act was put in place the membership it merits, or we were willing to come and get a private member's bill to give this school board its membership.

Mr Fletcher: Thank you. That clears it up.

Mr Ron Eddy (Brant-Haldimand): Mr Fletcher is saying it clears it up.

Mr Fletcher: As far as understanding.

Mr Eddy: It doesn't really clear it up as far as I'm concerned.

I'm pleased to support the application of the city of Ottawa because it's a local initiative regarding a local matter. I can well understand the view of the council for the city of Ottawa because, having dealt with regulations and acts over many years, as many of you have as well, in most cases, if it doesn't say you can do something,

then you'd better not do it, and I think this is the point that's here. It's more pointed because school boards are dealt with. I understand the viewpoint of the council for the city of Ottawa, and I'm wondering what's the best way to deal with this.

I have no problem voting for the bill as presented, but we have this other problem where the ministry is saying it's not necessary and it won't approve it, so I'm wondering if there is any other alternative. Would counsel for the city of Ottawa think that if the city of Ottawa passed—you refer to the act and appointments—or did something in its rules of procedure or its bylaw it has about appointing members to the library board, constituting it as it sees pursuant to the provisions of the libraries act, had a letter from the appropriate minister stating that the ministry has no objection to it—I don't expect the minister would want to approve it, but would state that there certainly is no objection—would that suffice?

We have the problem here that the ministry is not going to support it, and therefore perhaps all government members may not support it. That could happen; it doesn't always happen. Is there any alternative? Could you give me your opinion on that if we went this other route and you had a letter from the minister stating very clearly that the city of Ottawa council has the authority under the present act to proceed to make these appointments?

Ms Dronshek: Our council has numerous letters from the ministry already requesting us to just use the public area for the appointments and to not pursue writing letters to the ministry asking the act to be amended. So what you're suggesting is what the council already has tried to do in the last five to six years.

Mr Eddy: Is it because of Ottawa's legal counsel's opinion that the act does not really make it possible? Is that the problem?

Ms Dronshek: No. The council has been advised of both situations. They've been advised of the specifics in the act; they've been advised that the ministries indicate that they should be using their public area for the appointments. Their position is that the school boards are dealt with and the citizen membership is a citizen membership and the school board is not a citizen membership. The school board has its own interests and it should be dealt with in the legislation.

Mr Eddy: Either in the legislation or indeed amendment to the Public Libraries Act providing for such other appointments from such other school boards as the appointing body may decide, or something along those lines. So it's an either-or situation to make it, in your opinion, completely legal.

Ms Dronshek: Yes.

Mr Paul R. Johnson (Prince Edward-Lennox-South Hastings): I know that to some degree we've tried to examine whether this is allowable or not, and I'm hearing yes, it is, but it hasn't been undertaken by the council.

Certainly as I've spent my time—albeit a short time, Mr Grandmaitre—in this place, I see from, time to time, legislation, and sometimes I feel there's excessive legislation. I'm not saying that's necessarily going to be the

case on this point; however, I'm hearing two different signals here. One is that this legislation doesn't need to exist because there are already ways and means to allow what your legislation is suggesting happen.

I'm still not clear. I heard what Mr Fletcher had to say and ask, I heard what Mr Eddy had to say and I heard what Mr Hayes had to say from the ministry. If you're allowed to do this at this time, then why is it necessary to have legislation to change?

I've heard also that you would like to amend the act that exists so that this can be allowed, but again, I'm hearing two different things. I want to know for myself, within my own head, whether it's necessary that this legislation go forward. If it's not, then why should it? If it is, then so be it.

Ms Dronshek: On a strict interpretation of the act, it would not be legal for the city to use its public citizen appointments for the school board. On a strict reading of the act, the school boards are dealt with. The rule is, when you deal with something specifically, your general provisions don't apply. So the other appointments are general and the school boards are specifically dealt with. Not only are the two larger boards dealt with and given representation, but the scenario where you have a lower board is dealt with and counted out because of its numbers.

Mr Paul Johnson: Does the ministry lawyer agree with that interpretation, or am I putting you on the spot?

Ms Kashul: No, I don't think we do agree with that.

The Vice-Chair (Mrs Ellen MacKinnon): Thank you, Mr Johnson. Are you finished?

Mr Paul Johnson: Yes. I'm still not entirely clear, but thank you.

Ms Christel Haeck (St Catharines-Brock): I have 16 years in libraries as a worker, and I have looked at your proposal here and I have to tell you that personally, as someone who has that experience, I would object to this particular bill. The reason why is that as I have seen library boards in action and dealt with the public that comes into the library, the school boards definitely provide public libraries with virtually all of the work that they do.

They provide no funding. They provide absolutely no support. In the 16 years that I was there, you can say that 30% of the work done on virtually every given day was focused on school projects at whatever level you want to choose. There is absolutely no support for resources, staff, the general running and maintenance of the library.

1030

Under the circumstances, I understand that this is a representative issue, but when in fact the school boards have this kind of clout and provide no support for the library—it is strictly from the municipality, from the municipal electors—I really can't concur with this. It is a long-held personal opinion for the work that basically the librarians do on behalf of the school board. I think the school boards have a lot of say but don't actually put their money where their mouth is. I won't support this. I really feel quite strongly and impassioned about it, and I believe you have the mechanisms in the Public Libraries

Act in order to achieve the kind of representation that you want.

There is adequate language there for you to comply. I believe you're changing the act. Having seen the evolution of the Public Libraries Act as it was amended in 1988, which was 100 years after it was first incorporated, I would say that there were several years' worth of work that went into that legislation and I would suspect that your public library board—because I know that ours definitely kept our workers informed on a regular basis of the evolution of that bill and I suspect that we were not an anomaly in that regard.

The creation of the Ottawa-Carleton French-Language School Board, which followed on the heels of that piece of legislation, the Public Libraries Act, probably didn't evolve overnight either, so as far as people being able to keep informed and to have their say on both pieces of legislation, I think there's probably been enough work going on that this piece of legislation is totally unnecessary and unwarranted.

Mr Eddy: This puts a different light on it, and I must say I don't think Ms Haeck is speaking to the question at all. The question is not who the city of Ottawa council wishes to have on the library board or the library board wishes to have on the library board. That isn't the question at all. The question is, how do we facilitate the appointing of those people that the council of the city of Ottawa wishes on the library board? That's the question, regardless of who it is, because the city of Ottawa should have the right to appoint who they wish. The question is, how do we facilitate that? The difference in opinion, I guess, is from two legal counsels, which is a situation I've suffered from during my entire life, having counsels with different viewpoints. That's why my spouse and I use the same solicitor; that's off the record.

However, the question I had was I would like the counsel for the city of Ottawa to follow up on her last words, to tell us the possible repercussions of the city of Ottawa proceeding illegally without, as they feel, specific authority to appoint the people who they wish to appoint. There are possible repercussions, and I just thought that should be on the record, because that's my concern: If the council proceeds to make these appointments without clear and legal authority, what are the possible repercussions? I know what they are, but I think they should be on the record.

Ms Dronshek: In my opinion, it puts into question the decisions of the Ottawa Public Library Board from the date—

Mr Eddy: Which could be challenged by the ratepayers of the municipality?

Ms Dronshek: Yes.

Mr Eddy: And this could be a very serious thing.

Ms Dronshek: Yes.

Mr Eddy: Further than that, it could mean that the members of the library board who made decisions could be individually responsible for the costs of some decisions.

I really don't see a problem with proceeding with the bill, and I'm in favour of that, unless the appropriate

ministry feels that an amendment to the libraries act could come forward very soon to make it clear that a municipal council can appoint the representative of another school board, such other school board as it wishes. It's something quite specific in the act. I'm sure we could get the wording. I don't know if the ministry is prepared to do that. So I think that's what we're faced with: either this bill or a subsequent amendment to the libraries act so that we don't have any other municipality coming before us with a similar problem, because, as the parliamentary assistant has stated, indeed we've had others come before us.

Interjection.

Mr Eddy: Liberal legislation? That doesn't mean it's perfect.

I have a letter dated October 11, 1992, addressed to the Honourable Karen Haslam, who was the Minister of Culture and Communications at the time. That's what the letterhead says; but anyhow, the previous minister. It's from the acting city solicitor, Douglas R. Wallace.

One paragraph in this letter states, "The Ottawa-Carleton French-Language School Board is dealt with under paragraph 3 and is not entitled to representation based on the number of electors. However, city council wants a guaranteed right to representation for the Ottawa-Carleton French-Language School Board enshrined in legislation to bind future councils." We have a problem with one council binding future councils. So that's one of the areas.

Also, there's another letter, April 26, 1993, from the Minister of Culture, Tourism and Recreation stating that the libraries and community information branch would be reviewing the Public Libraries Act and the issue of representation on boards would be examined. When that would be done, I really couldn't say. Sheila Larmer will address that.

Ms Larmer: Although we are not under way with such a review at this time, we would be reviewing it from the perspective of whether it is necessary to continue enshrining any school board representation on public library boards, rather than with the view of broadening out and increasing the proportionate representation.

Mr Paul Johnson: Did I not hear in the beginning of these proceedings Mr Hayes say that similar legislation had been defeated or turned down? Was that consistent? Has there been a precedent set previous to today's hearings?

Mr Hayes: Linda Gray from the ministry will comment.

Ms Linda Gray: I think the similar legislation that was referred to was referred to in the context of legislation where a council had wished to bind future councils by legislation on appointment of local board members. The legislation that was referred to was the city of Toronto proposal where it sought to enshrine in legislation the membership of the committee of adjustment, and that's the precedent we are looking at here.

Mr Grandmaitre: But the Toronto private member's bill didn't deal with public libraries' appointments.

Ms Gray: No. It dealt with—

Mr Grandmaître: Committee of adjustment.
1040

Ms Gray: It dealt with appointments to local boards, and the ministry at that time stated its policy was that councils should not attempt to bind future councils when they make appointments to local boards.

Mr Chris Hodgson (Victoria-Haliburton): There seems to be a dispute or a difference of opinion on whether they can or cannot appoint members from the Roman Catholic sector of the French-language school board. I suggest that in order to get local control—we are not binding future councils—all you need to do is amend section 1 where it says “shall appoint” to “may appoint.” That gives Ottawa the clarification it needs, that they can appoint them if they wish; it doesn’t bind future councils and it allows for local control.

Mr Grandmaître: When you become the minister, Mr Hodgson, you won’t like the word “may.”

Mr Hodgson: We’ll deal with that problem next year.

Ms Haeck: Not likely.

Mr Eddy: Madam Chair, I was most interested in the representative of the ministry saying that they would look at—may look at? might look at?—an amendment to the Public Libraries Act leaving it completely open, which of course would meet this problem. I know, as you stated, you’re not reviewing the Public Libraries Act at the present time, but is it possible for a member to bring in that proposal? Is it intended that something would be coming forward in the near future or not?

Ms Larmer: It’s certainly not on the legislative agenda at this point.

The Vice-Chair: Shall we proceed with the vote? Agreed.

Shall section 1 carry? In my opinion, the nays have it.
Shall section 2 carry? In my opinion, the nays have it.
Shall section 3 carry? In my opinion, the nays have it.
Shall the preamble carry? In my opinion, the nays have it.

Shall the title carry? In my opinion, the nays have it.
Shall the bill carry? In my opinion, the nays have it.
Shall the bill be reported to the House? In my opinion, the nays have it.

So the bill is defeated. Thank you very much for your presentation and your time and efforts.

CITY OF OTTAWA ACT, 1994

Consideration of Bill Pr98, An Act respecting the City of Ottawa.

The Chair: We say we have the sponsor and the applicant for Bill Pr98. Are there any other members of the applicant’s party who wish to come forward and join the applicant at the front desk?

Mr Grandmaître, if you would then introduce the members and make any opening remarks that you wish.

Mr Grandmaître: I’ll make my opening remarks after the introduction of my guests.

Mr Bob Crothers: Bob Crothers, the chief fire inspector for the Ottawa fire department.

Ms Dronshek: Edythe Dronshek, legislative counsel.

Mr Grandmaître: I’m the same losing member.

Ms Cathy Junop: Cathy Junop, manager, bylaw enforcement, city of Ottawa.

Mr Grandmaître: Bill Pr98 deals with two things, actually, the Planning Act and the Fire Marshals Act. With your permission, there are only two short explanations, Madam Chair.

I’ll start with section 1 and section 2 of the bill. “Subsections 31(22) and (23) and section 67 of the Planning Act provide for offences and penalties in relation to property standards and zoning matters. The purpose of the bill is to enable the corporation of the city of Ottawa to set out these offences and penalties in their bylaws (and rely on them for the prosecutions rather than on the Planning Act provisions). This would mean that the fines collected for contraventions of the Planning Act provisions would belong to the city (by virtue of section 324 of the Municipal Act) rather than to the province.”

Section 3 deals with the Fire Marshals Act. “This provision would enable the council of the corporation of the city of Ottawa to pass bylaws assuming responsibility for the enforcement of the Fire Marshals Act in the city. It would also allow the city to set out the penalties and offences for violations of that act in their bylaw.”

The Chair: If Ms Dronshek would like to explain the city’s position on this bill, for the members.

Ms Dronshek: Yes. Sections 1 and 2 deal with matters under the Planning Act and it’s basically to give the council the authority to place the offence provisions for the violations of its respective bylaws into the bylaw itself, rather than creating the offence under the Planning Act. This will achieve more effective enforcement in that they will be able to use the provincial offence notices and the set fine procedures that are in place for these types of offences.

We have encountered technical difficulties in implementing the set fine provisions because of the separation of the offence provisions from the bylaw under which the offence occurs. The city of London has obtained legislation in this matter, as well as the city of Hamilton, which came to this committee and had similar legislation approved. We are just asking for the same provisions.

With respect to the fire matters, there are two distinct problems. If I could give you a little background, the city has been active in prosecuting offences under the Fire Marshals Act and the fire code violations pursuant to a request of its fire department officials, even though there’s no express authority to authorize the corporation to institute these prosecutions, as there is under the fire code’s sister legislation, the Building Code Act.

Municipalities are creatures of statute, and that’s why we come here. We’re given limited powers and we work within the framework of the powers that we’re given. At this point, the Fire Marshals Act does not give the municipalities any powers at all with respect to enforcement. In fact, it specifically dictates that the crown attorney or someone with the crown attorney’s authority is the individual responsible for instituting these prosecutions and conducting them. There is no authority for the

municipal solicitor to get involved in these prosecutions.

It would be necessary, according to—mind you, they're provincial court decisions, one of which said the municipal solicitor has no status at all to prosecute these offences under the Fire Marshals Act and the second one was a modifying situation, whereby the crown attorney gave the municipal solicitor a letter of appointment declaring that he was acting as the crown attorney's agent. Can you imagine, the crown attorney's agent? The crown attorney is the principal and the municipal solicitor is simply his agent in these prosecutions. So that's the situation at this point. The municipality really has no authority to do anything with respect to assisting the fire department in prosecuting these offences.

1050

Section 3 of the bill will provide the municipality with the specific legal authority to institute and conduct these prosecutions for the offences that are identified by the fire inspectors, who are both employees of the city of Ottawa and assistants to the fire marshal.

It would be efficient management and cost-effective to have the prosecutions handled by the local municipality. It would improve the enforcement of fire safety matters and relieve the provincial crowns from the duties of providing advice to the fire department officials. In fact, the question really is, do the crown attorneys have the time to deal with these fire department issues and give them the time and attention that they deserve in order to lay the charge and proceed to trial? The city is volunteering to undertake this workload and the tasks identified with the enforcement, and merely requests the legal authority to do so and, incidentally, some cost-recovery features with it. In assuming that it's the local municipality that has the main interest in ensuring that its citizens are protected in fire safety matters, it seems prudent that the municipal solicitor takes under tow the fire department officials and assists them in every way possible to do their investigations and lay their charges so that they are successful when they get to trial.

With respect to section 4, this is really a fees and charges matter. It's recognized that basic fire inspections are for the protection of citizens, and the fire department does the pre-fire planning operations for the citizens. The request is simply to acquire the ability to charge for things which we consider to be user requests over and above the general nature and manner of the fire department operations.

The examples which I included in the compendium are the requests to certify that there are no outstanding orders on a property when you're doing a sale or a transaction, including mortgages. We get a great number of these where we are required to either certify from our files or go out and do a physical fire inspection of the premises, and it's our position that the requesters should pay a nominal fee for this service.

With respect to summary fire reports, these documents are created for the requester, which is an insurance company. They require the relevant information respecting a fire. These reports would not be created if it was not for the requester needing it, and this is another situation where we feel there should be an ability to

charge for the service. We have inspections for the applicants for liquor licence permits, where the board stipulates that there must be a fire inspection, which includes measuring the room dimensions and determining the occupant capacities. We also do inspections on an annual basis for day cares, nurseries, group homes etc which are mandated by the province, and these inspections are over and above the city's normal level of service for inspections. If this kind of service was not mandated by legislation, these premises would be falling into the ordinary work plan and be inspected as the situation occurs, rather than being given priority for the inspection.

With respect to trade and consumer shows, there's a need to have inspections to determine that fire safety matters such as overcrowding and blocking exits are not violated. The fire department inspects the floor plans. They consult and they do move-in inspections and daily inspections in order to ensure that this situation does not occur. It's felt that the organizer or promoter of the event who is making the profit should pay a small fee for this specific service.

In addition, we do get some requests where they want a dedicated pumper and crew in place for fireworks displays, and this is at the cost of the citizens at large. We do not have an ability to have a fee for service.

This request was never intended to impact fire emergency responses, and we have agreed to a motion to be put to you today to relieve this doubt by specifically stating that this restriction does not apply to fire emergency services and responses. There is no desire by the municipality to do this. We're just attempting to have the ability to charge fees for services which we consider are over and above and are generated by individual requesters rather than the public.

We have expressed concern on this ability to charge on a regular basis to the Solicitor General, and no legislation has been forthcoming. Some municipalities charge without any legal authority, but we have not done so. There is no legal authority to set up user service charges, and we would like the ability to do so. Perhaps Chief Crothers would like to elaborate on this.

Mr Crothers: As Mrs Dronshek has stated, the Ottawa fire department certainly has had long experience and some difficulty in dealing with the crown attorney's office with regard to violations of the Fire Marshals Act and the Ontario fire code.

My own experience has been such that in Ottawa the crown attorney's office has very little time to spend in the dealings with the prosecutions involving the Fire Marshals Act and the Ontario fire code. Past experiences indicate to me that really the crown attorney would meet with us about five minutes before we go into the courtroom, take a look at the charges and, at that point in time, explain to us that there was a problem related to the charges that we were proceeding with. So we found that our success rate in dealing with charges pertaining to the Fire Marshals Act and the fire code was very poor.

To that end, we approached the city of Ottawa legal department and asked it to assist us not only in prosecuting the charges but in giving us advice on the best

manner possible in proceeding with these charges. We've been very successful in dealing with our legal department, and certainly we would ask your support in giving us the legislative authority to have our legal department continue with the prosecutions of both the Fire Marshals Act and the Ontario fire code.

With regard to the charges of fees for inspections, the same situation applies. We found that in a poll of departments across the province of Ontario approximately 90% of the fire departments are charging for services similar to what we are asking for here today, without legislative authority, so we're simply trying to legitimize the situations that are taking place right across the province for a level of service above and beyond what we normally provide for the citizens of our city.

Mr Hayes: From the perspective of the Ministry of the Solicitor General and Correctional Services, we recommend that section 3 of the bill be voted down for the following reasons:

The city of Ottawa is currently free to prosecute violations of the Fire Marshals Act. Neither the Fire Marshals Act nor the Provincial Offences Act confers any exclusionary authority on the provincial prosecutor to conduct such prosecutions, and case law suggests a letter from a crown attorney on the letterhead of the Ministry of the Attorney General is sufficient to authorize a municipal prosecutor to enforce a legislation as an agent of the crown. We have representatives here who will verify that.

If municipalities are authorized to set out the penalties and offences for violations of the act in their bylaws, the result could be a lack of consistency and uniformity across the province in the area of fire safety.

The provincial fire marshal's office lends substantial support to municipal fire departments in their inspection and prosecutorial roles. The province, through the court system, contributes considerably to the enforcement of the Fire Marshals Act. Any changes to the current fines disposition arrangement should be dictated by a province-wide government policy determination.

1100

Persons charged with a violation under the fire code may have the matter determined by the courts. Orders under the Fire Marshals Act may be appealed to the fire marshal's office and the fire code commission and the court system.

For the above reason, we recommend that section 3 be deleted from the bill, and that amendments, of course, be put forward to subsection 4(b) to ensure that emergency services are not subject to administrative or user fees.

I have representatives from the Ministry of the Solicitor General and Correctional Services who can speak further on this issue. We have Joshy Kallungal and Celine Dias here if members care to ask questions.

We also have Kay Glynn from Municipal Affairs here this morning. As far as the Ministry of Municipal Affairs, we don't object to the part dealing with the Planning Act amendments, but through the Planning Act, however, these other concerns are outstanding.

Mr Grandmaitre: In the great discussions that we've

had over Bill 120, better known as basement apartments legislation, the fire marshal's people came before the committee requesting that this government change the Fire Marshals Act. Apparently there hasn't been any modification or amendment to the Fire Marshals Act for a good number of years, and this situation that exists not only in the city of Ottawa but throughout our 834 municipalities in Ontario—90% of our municipalities are charging a fee at the present time. What is the government's intention to prevent these municipalities that are actually breaking the law?

Mr Hayes: As far as opposing fees, the ministry is not opposing fees.

Ms Celine Dias: Celine Dias, Ministry of the Solicitor General and Correctional Services. The members, with the Chair's permission, have been provided with a brief, if I could take you through some of the case law there.

Tab 1 is the town of Oakville v Halton separate school board, and in that particular case, the justice of the peace accepted a letter signed by the crown attorney as sufficient authority to empower the town's solicitor to prosecute as agent of the crown. That case overruled the one found at tab 4 which Ms Dronshek referred to earlier.

At tab 2 we have a High Court of Justice decision, now known as the Ontario Court (General Division), *Regina v Luz*. The issue before the court was whether an Ontario crown attorney, by letter, could authorize the federal crown to prosecute a Criminal Code offence. The court held that the appointment of ad hoc federal crowns to prosecute criminal charges was a fair and practical way to proceed and to avoid wasteful and inefficient duplication of prosecutorial resources. The court recognized that the power to delegate to counsel or agent is a functional necessity of the office of the Attorney General, which requires no statutory authority.

The Crown Attorneys Act is an enabling statute that provides housekeeping procedures for the involvement of counsel and agents on behalf of the Attorney General.

A Supreme Court of Canada decision in *Regina v Harrison*, found at tab 3, considered the issue of delegation of authority, as to whether "the right of appeal given to the Attorney General or counsel instructed by him for the purpose" meant that the Attorney General had to personally instruct counsel or whether the authority could be delegated. The court held that counsel being an officer of the court, it is assumed that when counsel states that he or she acts with the authority of the Attorney General, he or she is in fact clothed with that authority. It is normally sufficient, according to the Supreme Court of Canada, that if counsel produces a letter which he or she received and believes was signed by the Attorney General, the Deputy Attorney General or an officer of the department he or she understands to have the requisite authority, that letter is sufficient to prosecute.

The city of Ottawa can currently prosecute offences under the Fire Marshals Act. It does not require an act to do so. If municipalities are authorized to set out penalties and offences for violations of the act in their bylaws, the result would be a varying range across the province and a lack of consistency and a lack of standards.

The provincial fire marshal's office currently provides substantial financial support to municipal fire departments. The province also provides grants to the municipalities to carry out their functions, including fire protection. Financial assistance is also available through the operation of the Ontario Fire College, where training, accommodation and meals are provided at no cost to municipalities.

Persons who are fined under the Fire Marshals Act currently have an appeal mechanism provided by the act. I contacted the crown attorney in Ottawa yesterday, a Mr Andrejs Berzins, and he indicated to me that he's not aware of any enforcement problems in the Ottawa region. He has three provincial prosecutors who currently do prosecutions and he has absolutely no objection to providing the necessary authority in writing to the city to conduct such prosecutions as may be required. I'd be happy to provide his telephone number to counsel.

The Chair: I hope all members have had a chance to at least glance at the package that Ms Dias has prepared for all of us. Our next questioner is Mr Eddy.

Mr Eddy: Thank you for that information. The first question—I have two—is that a letter from the crown attorney for the Ottawa-Carleton judicial district then is sufficient, if that person will give a letter to the city or to the fire chief. Tell me, is that a letter that would cover all prosecutions under the act until rescinded or until the crown attorney is replaced, at which time there might be another letter from a new crown attorney? What I'm trying to point out, it is not a letter for each offence.

Mr Hayes: No, it's not.

Mr Eddy: Okay. That's clear.

The Chair: Just for the purposes of Hansard, would Mr Hayes or Ms Dias respond to Mr Eddy's question.

Mr Eddy: It's to clarify for what term and what number of offences, so to speak, the letter would be valid.

The Chair: Ms Dias, would you respond.

Ms Dias: The letter of authority from the crown attorney's office would not be specific to any offence or any period of time.

Mr Eddy: The other question I have then is of the applicant. In your opinion, do you feel that letter does equip you to do those things that you're requesting to do by legislation in section 3 of An Act respecting the City of Ottawa? Do you feel that clarifies it and that is sufficient, or should it be tried for a period?

Ms Dronshek: There are two problems. One is the expenditure by the municipality of its funds and staff time to do something that it's not specifically authorized to do. This deal between the crown and the municipality would be outside the municipality's framework of authority. So there could be an argument that the municipality does not have the legal authority to do this even though it has the letter from the crown, because in fact the municipality has no mandate to proceed and do these prosecutions.

So there are a couple of problems. You've got the act saying it's the crown. You're trying to create the legal fiction that the municipal solicitor is in fact an agent of

the crown, who is his principal, when you structure the municipality to be distinct from the provincial crown's office. So the municipality and the provincial crown have no legal ties together, with the exception of this fiction that you're creating by means of this letter.

1110

There's no guarantee that the letter would suffice. In fact, if you had a brilliant defence lawyer, which most of our people prosecuting seem to have, I think it would be an excellent argument to pursue. Of course, the second element is that the city is expending municipal funds on these fire matters, which is quite costly because the fire people do need a lot of help. They can't do this kind of prosecution on their own. They need time to come in and discuss what they need for their inspections as part of their evidence. Then they need assistance in figuring the sections that they want to lay charges under, as well as the specific wording of the charge and then it proceeds into the court system. So there's a lot of time to be spent with them prior to the day in court.

The Chair: Ms Dias also wished to respond.

Mr Eddy: That would be helpful.

Ms Dias: With respect to the expenditure incurred by the municipality, I would remind the members that the province in fact finances the administration of justice, the courthouses, the justices of the peace, the judges, the interpreters. The fire marshal's office also provides financial and other support to the municipalities to carry out their prosecutions, apart from provincial grants that are given to municipalities to assist them in their functions, including fire protection.

Mr Grandmaître: Can you identify the grants that are given to municipalities?

Ms Dias: They're unconditional grants given by the province for all of their functions, including those of fire protection.

Mr Grandmaître: You mean in spite of the unconditional grants?

Ms Dias: I'm sorry? Full fire protection is part of the unconditional grant—that's right—given by the province, generally to municipalities.

Ms Dronshek: If I might add, I think we're back into the basic municipal question that municipalities are creatures of the province and can only do what the province allows them to do.

Mr Hugh O'Neil (Quinte): I was just going to say that you can use that funding out of all the surplus funds that you don't have.

The Chair: Thank you, Mr O'Neil. At this point, having no other questioners—

Mr Eddy: Yes.

The Chair: Mr Eddy, I do have some major time constraints. We do have a bill from Mr Hodgson, one from Mr Johnson and we have another member who is in fact at another committee who has another bill. So I would ask you, if you could, in the interests of time, keep your question brief.

Mr Eddy: I try to do that on every occasion, to be precise. I mean, I'm not a wordy person, as you know,

and very rarely enter into debates and most of the problems around this place, but on this occasion the question I have is about the mandate of the counsel of the municipality of the city of Ottawa to do this, even though the crown—and I think that's the crucial and the main point, remembering that a municipality cannot do what it is not authorized to do. You must have specific authority to do anything a municipality has, and it has to recite that authority in any bylaw it has. If there's not specific authority, it better not do it.

I think what's being asked here in section 3 is for that specific authority to do it. I support it. I think it's proper. It's a very legal point and I see no problem for the province to allow the city to do it, to make it absolutely sure that when the crown attorney authorizes the city to proceed, a case isn't lost because all of a sudden the city doesn't have the mandate. That's what it's all about. It's a very easy thing to do, to make sure that the city has clear, legal authority to do this matter that the crown attorney will say in a letter you can do. But it needs that other part to make it all legal and proper or we've got this situation where they're downgrading. With those few brief remarks, I just want to say I support the application.

Mr Paul Johnson: Not to prolong the debate, however, I was just wondering if Mr Eddy could clarify something for me that he just said. Do you support the whole bill or just section 3?

Mr Eddy: I support the whole bill, but the parliamentary assistant was saying that section 3 would be deleted, that the ministry did not approve of section 3 and would request that it be deleted. That's why I'm speaking specifically to 3. I approve the bill. I think it's the way to go. The more things you can have done locally by local people for local problems—

Mr Paul Johnson: I understand that, Mr Eddy. I just wanted clarification. I wasn't sure what you said.

The Chair: At this point, I would like to point out to members that the clerk has just distributed two amendments, two handwritten motions. The first one, just to keep it clear, is again section 4, but it has (b) and (c) to it, and when we come to that point we will be dealing with that in its proper order. But I also want to point out to members that the previously printed motion is not going to be dealt with, so please do yourself the service of tearing it up so we won't get it confused. I will at this point place the question if members are—

Mr Fletcher: Madam Chair, if we are going to be voting, could we have a five-minute recess, please?

The Chair: I appreciate your comment, but I think members should also keep in mind that in light of the work that is before us, you might wish to consider a motion at some point about extending the sitting.

Mr Fletcher: Well, that's at that point. I'm asking for a five-minute division.

The Chair: You obviously have that. We will recess for five minutes.

The committee recessed from 1117 to 1124.

The Chair: Ladies and gentlemen, we had to recess just prior to my asking the question if members are ready to vote.

Mr Hayes: Madam Chair, I'd like Celine Dias again to clarify the stand from the Ministry of the Solicitor General and Correctional Services on section 3.

The Chair: Miss Dias, if you would undertake that clarification.

Ms Dias: With respect to the definition of offences and violations, I must express the ministry's reservation on that, because if every municipality is allowed to define "offences" and "penalties" under the Fire Marshals Act in their bylaws, we would have such a varying divergence across the province, and there is sufficient concern that there would be a lack of standards or consistency.

We are distinguishing the fines from the user fees or administrative charges, and the ministry has no objection to the user fees or administrative charges. We are objecting to the fine disposition arrangement that the city is suggesting.

For those reasons, we would recommend that section 3 be voted down.

Mr Eddy: Could you repeat that point?

Ms Dias: With respect to the definition of "offences" or "penalties" in bylaws of municipalities; section 3.

The Chair: Miss Dias, the point about user fees, just to clarify for all members, is a different position.

Ms Dias: That's section 4.

Ms Dronshek: May I just say that with respect to section 3, subsection (1) is the provision that would allow the municipality to assume the prosecutions and assist the fire people.

Subsections (2) and (3) are a little different. They were to enable the municipality to get set fines for the offences so that they don't all have to proceed to trial in case there is a situation where payments can be made out of court. At the present time there are no set fines, and the municipality is not able to require them because the offences are set out in a provincial statute. So all that (2) was to do was to assist us in getting the fine structure in place so that we can use the set fine procedure.

Subsection (3) specifically says that we cannot exceed the fine limits that are set out in the Fire Marshals Act, so there is no ability for the municipality to be fooling around with the money amounts that the province has decided to set.

Ms Dias: We're still objecting to it. The fines and penalties are already set out in the Fire Marshals Act, and we see no need to redefine them. It would still lead to divergence. All (3) is saying is that they would cap it at the level set in the Fire Marshals Act, but there would still be divergence across the province.

Mr Eddy: Let's talk about Ottawa-Carleton. You've set up a council there that's completely divergent and different from anything either in Mars or the world. So why this now, all of a sudden? I think there should be some way of amending it to—and I note what section 4 says, that the offence provision cannot exceed—sorry, subsection 3(3). So surely there's some way to amend section 2 to meet the ministry's requirements and still give the city of Ottawa the right to do not what they want to do but what they should be doing and get on with this.

I think we have a problem here in that the crown attorney is very busy and hasn't been proceeding with prosecutions. So the city wants to do it, the city is willing to do it; why can't we let them do it? I think it's a plus for us in the province and for the city.

1130

Ms Dias: If I may respond, the ministry has no intention to discourage municipal prosecutors from prosecuting under the Fire Marshals Act.

Mr Grandmaître: They're not doing it.

Ms Dias: All we're asking is that you get the requisite authority from the crown attorney's office, and when I contacted the crown yesterday, he did not indicate that there was any problem. He has three provincial prosecutors and he's happy to provide the necessary authority.

Mr Eddy: But the city does not have the mandate to undertake it because there's no specific authority for the counsel of a municipal corporation to so do. Is the ministry proposing that subsection 3(b) be deleted, or the whole section 3?

The Chair: They're asking for that section to be defeated. That's what was the recommendation. As we go through the vote, they are asking that that be defeated.

Mr Crothers: With regard to the statement by Ms Dias and problems related to the crown attorney's office, the statement was made earlier that in conversations with the crown attorney in Ottawa, they had no problem in dealing with fire code violations. I can state that's probably correct, the reason being that they don't handle the fire code violations in the city of Ottawa.

I had meetings, as I said earlier, with the representatives from the crown attorney's office in Ottawa, and he indicated to me very clearly that it was not a high priority, treating matters related to the Fire Marshals Act and the fire code. Consequently, we were losing cases under the violations of the fire code and the Fire Marshals Act. That's why we're asking for support to allow our municipality to handle these charges. It's a sad situation and it's a serious problem.

Ms Dias: I believe the question has already been answered. The crown attorney is willing to grant you the letter giving you the necessary authority. I just don't know whether he has ever been asked for that.

Mr Crothers: Do it under 3(1) then. Give us the authority under 3(1), through the legislation, to do it.

Ms Dias: There's case law right up to the Supreme Court of Canada which recognizes the delegation of authority, and that's what the crown attorney's letter will provide to you. You don't need an act to do it. Other municipalities are currently imposing it.

The Chair: I am going to be firm and move forward to the vote. We have definitely had ample discussion on this point, and we are getting into the situation of a lot of repetition. So at this point, are members prepared to vote? Agreed. I remind members that there are some amendments, so keep those in mind as we proceed.

Shall sections 1 through 3 carry? No? I would ask, those in favour of sections 1 through 3?

Mr Fletcher: I think you better go section by section.

The Chair: Okay, I could do that.

Shall section 1 carry? Agreed.

Shall section 2 carry? Agreed.

Shall section 3 carry?

Mrs Ellen MacKinnon (Lambton): I move that section 3 be deleted.

The Chair: I will ask those who are in favour of section 3 to please voice their response. Those in favour? Those opposed? It is defeated.

Section 4: Mr Fletcher.

Mr Fletcher: I move that section 4 of the bill be amended by striking out "and" at the end of clause (a), and by striking out clause (b) and substituting the following:

"(b) preparing summary fire reports; and

"(c) providing services that are in excess of the corporation's usual level of service for fire matters."

The Chair: All those members in agreement with that motion, please signify. Agreed.

Mr Fletcher: I have another amendment to section 4.

I move that section 4 of the bill be amended by adding the following subsection:

"Restriction

"(2) A bylaw passed under clause (1)(c) shall not apply to fire emergency responses."

The Chair: All those in favour, please signify. Any opposed? None. Carried.

Shall section 4, as amended, carry? Agreed.

Shall sections 5 and 6 carry? Agreed.

Shall the preamble carry? Agreed.

Shall the title carry? Agreed.

Shall the bill, as amended, carry? Agreed.

Mr Eddy: You're leaving a very important part out.

The Chair: And who's opposed? Any opposed?

Mr Eddy: No. You're leaving a very important part out.

The Chair: There's one opposed. Okay.

Mr Eddy: Read the damn thing. You're not listening.

The Chair: Mr Eddy, order, please. Shall I report the bill, as amended, to the House? Agreed. Thank you.

To all members, thank you for your time and efforts. I would at this point—

Interjections.

The Chair: Order, please. We do have important business. Order. Mr Hodgson.

Mr Hodgson: I'd like to move a motion that we extend today's hearings if necessary. I've got people who have travelled a long way this morning to be here and they have a presentation on the last order. I'd like unanimous consent to do that.

The Chair: Members, we have a motion before us from Mr Hodgson that we extend our sittings beyond 12 to continue with our order of business. Is that agreed? That is so ordered.

I would like at this point to remind members that next

week we have a substantial order of business as well and I have advised the clerk that we will be starting at 9:30, so you will be receiving a notice to that effect.

**OAKTOWN PROPERTY
MANAGEMENT LIMITED ACT, 1994**

Consideration of Bill Pr111, An Act to revive Oaktown Property Management Limited.

The Chair: Mr Fletcher, on behalf of Ms Akande, who is doing double duty today in another committee, will introduce the applicant on Bill Pr111.

Mr Fletcher: Thank you, Madam Chair. For Ms Akande, I would like to introduce Hans von Monteton and Bill Pr111, An Act to revive Oaktown Property Management Limited.

Mr Hans von Monteton: I am Hans von Monteton and this application is brought in order to revive Oaktown Property Management Ltd. The charter for Oaktown was dissolved by the Ministry of Consumer and Commercial Relations on July 7, 1987, for default in filing annual returns. Notice of default was apparently forwarded by the ministry to the directors of the company but was not received by any of them, and none of them were aware of the dissolution until 1993. The applicants wish to revive the corporation in order that it may deal with the property it owns.

The Chair: Thank you, Mr von Monteton. I would ask if there are any other interested parties at this point who wish to come forward. Seeing none, I would advise members that Mr Hayes, who had to leave for a minute or so, advised me before his departure that, speaking on behalf of the Ministry of Municipal Affairs, there are no objections to this particular bill that he is aware of.

Are there any other questions at this time? Seeing none, are members prepared to vote? Agreed.

Are members in agreement with sections 1 through 3? Agreed.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Mr von Monteton, I thank you very much for your time and patience this morning. I hope you'll see that this committee is a rather active one.

Mr Fletcher: We agree on something, Ron.

Mr O'Neil: I hope the next two go that quickly.

1140

TOWN OF PICTON ACT, 1994

Consideration of Bill Pr112, An Act respecting the Town of Picton.

The Chair: I would ask Mr Johnson, along with the applicant relating to Bill Pr112, An Act respecting the Town of Picton, to come forward.

Mr Paul Johnson: Thank you, Madam Chair. On my right is Jack Ward, solicitor for the town of Picton. The intent of Bill Pr112, An Act respecting the Town of Picton, is to reduce the number of elected councillors from six to four. For a further explanation I'll turn it over to Mr Ward.

Mr Jack Ward: The application for this private bill has been made necessary by the fact that council wishes to make this reduction in the number of councillors in time for the municipal elections to be held this fall.

When this matter came before council, it was realized that the time interval in order to do this was very short. It would mean that the approval through a plebiscite, with the Ontario Municipal Board's approval, would have to be obtained before September 7 in order to be effective at the municipal elections this year.

In addition to that, the expense of a general plebiscite was considered to be unreasonable, given the size of the municipality and the financial constraints that we're dealing with. As an alternative, we have therefore made this application for a private bill simply for the purpose of reducing the number of councillors, without requiring the assent of municipal electors.

I may say that there have been no submissions to council or to any member of staff concerning this matter, and we believe that the majority, if not all, of the local electors are in favour of this reduction in the size of council.

The Chair: Thank you, Mr Ward. I would ask if there are any other interested parties who wish to come forward at this time. Seeing none, I would ask Mr Hayes, on behalf of the Ministry of Municipal Affairs, to make some comments.

Mr Hayes: The Ministry of Municipal Affairs is not objecting to this bill. There have been some precedents set. Of course, the towns of Napanee and Bothwell obtained private legislation in March in the same form as this bill.

The Chair: I understand that Mr O'Neil has some questions and comments.

Mr O'Neil: Yes. I think Jack has likely answered my question—the parliamentary assistant to the minister. So you've had no objections to that. I just wondered what the reasoning was, why you would reduce it from six down to the four.

Mr Jack Ward: Two reasons: principally economy, to save the cost of the additional fees paid to councillors for regular meetings and special meetings, and we think it will increase the efficiency of council. We've actually reduced the number of committees so that we don't require as many councillors to staff committees as previously.

Mr O'Neil: Just to say that the town of Picton is not in my riding, it's in Mr Johnson's riding, but it's one of the nicest towns in the province of Ontario and I certainly will be supporting this application.

The Chair: I heartily agree with that assessment of the town of Picton, having spent many an hour there. Friends of mine live in Cherry Valley, so I—

Mr Fletcher: Maybe you should visit Guelph some time.

The Chair: I have too, and it has some very lovely architectural features. We could probably say that about all areas of the province.

Mr O'Neil: One of the nice reasons too is that before

you can get to Picton, you usually have to go through either Trenton or Belleville to get there.

The Chair: No, I cut off on the Wooler Road. That's another situation.

Mr Eddy: I just commend the town for the application. I'd point out that it's another case where the Municipal Act is archaic and should be updated because the town should not be limited to seven or nine; it should be allowed to have a number as it's applying to do. I agree with the application. Thank you.

The Chair: It seems like we have a rather friendly feeling about this particular bill.

Mr Paul Johnson: In that case, Chair, if I could I make a comment, first of all I want to apologize to Mr Ward because this is a very clear bill and there's not any objection to it. As you know, I'm subbing on the committee today and I didn't realize that Bills Pr97 and 98 are going to be extensively debated.

I'm sure Mr Ward found it interesting. However, he did have to sit through some protracted debate on those bills and I apologize to him for that. Indeed, I concur with all those great things that have been said about the town of Picton. In my opinion, it is one of the nicest towns in all of Ontario, and since 1837, I might add.

The Chair: Especially as someone who lives in Athol, right?

Mrs MacKinnon: Will you be ending up with a council that has an even number?

Mr Jack Ward: No, we have nine now. We'll have seven after the reduction.

Mrs MacKinnon: Oh, all right. Because I thought that could be dangerous.

The Chair: I put the question to members. Are members then prepared to vote on Pr112? Agreed.

Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you, Mr Ward. I hope you report back that Mr Johnson is doing hard work here at the standing committee on regulations and private bills.

Mr O'Neil: We weren't going to get political here, were we?

The Chair: But he can also report on Mr O'Neil, the fact that he's doing a lot of good work here.

Mr O'Neil: I'd love that.

Mr Jack Ward: I'll certainly relate all the comments with respect to the town and the county.

The Chair: I've spent many hours there. I think other members probably have had a chance to wander through that lovely area. It has a lot of history. Speaking from the Niagara-on-the-Lake perspective, I think you and Niagara are some of the oldest areas of the province.

Mrs MacKinnon: You also had more snow than any other part of Ontario last year.

The Chair: It beats out Fort Erie, is that it?

COUNTY OF VICTORIA ACT, 1994

Consideration of Bill Pr106, An Act respecting the County of Victoria.

The Chair: I call Mr Hodgson with the applicants relating to Bill Pr106, An Act respecting the County of Victoria. I personally want to thank the applicants for their patience. It has been a long morning for you.

Mr Hodgson: Thank you very much, Madam Chair. It wouldn't hurt my feelings if you expressed the same instructions to them that you did for Mr Johnson's riding when they go back.

I'd point out that at the far end is Ken Logan, warden of Victoria county, Clare McKay, the CAO of Victoria county, and Laurie McLean, the solicitor. Laurie will be the one explaining this bill, but I want to express to the committee that Victoria county is also a very historic and beautiful part of Ontario. I'm very fortunate to be able to represent this special place in Ontario.

Like all upper-tier municipalities, Victoria county's felt the stresses of mandated programs and the accountability to the taxpayer that's required when we're taking public money to provide public services. This is one step that they've been able to agree on to reduce the present size of county council in time, like Mr Johnson's application, for the fall municipal elections.

1150

It also will make it so that in the future it won't grow as fast, because, as has been pointed out around this table a number of times, the outdated Municipal Act, as the populations grow, automatically escalates the size of county councils. This act is to deal with that.

I'll let Laurie McLean explain the details to you.

The Chair: I just want to say, on behalf of the Chair, I've spent some time in Omemee. Does that count?

Mr Hodgson: That counts.

Mr Paul Johnson: The Chair's a traveller.

The Chair: She's been known to be, yes. Not these days. It's usually in St Catharines-Brock.

Ms McLean, if you would please make your remarks.

Ms Laurie McLean: Thank you, Madam Chair. I might, in keeping with the spirit, indicate that the warden is actually from Omemee and is the reeve of the village of Omemee. So you have hit a familiar chord.

Before you for consideration, Bill Pr106, is the proposal being advanced by the county of Victoria. Were that bill to receive this committee's approval and ultimately royal assent, it would serve to reduce the number of members on county council, as Mr Hodgson has indicated, based on actual numbers and on the data that are available at the present time in terms of numbers of municipal electors. We're talking of 28 current members being reduced to approximately 22 members on a new council.

As set forth in the compendium of background information that was submitted with the application, the composition and voting powers on the council of the corporation of the county of Victoria are presently established under the County of Victoria Act, 1972. It is under that act that this county operates and not under the

Municipal Act, although subsequent to the enactment of the county's last special legislation, the Municipal Act was actually amended and what now is the composition of county council is represented in the Municipal Act, although it's necessary for this county to seek, by way of private bill, an amendment to its existing private bill.

The proposal calls for numbers on county council and their voting powers determined by municipal electors in number multiples. The existing bill spoke in terms of 2,500 multiples, and the new one that is before the committee speaks in terms of 5,000 multiples. The bill itself is quite concise in terms of the numbers that are involved and in the votes that would pertain to each member.

The bill that is before you does indeed represent the political will of the elected representatives of the county of Victoria. It's a political will that was formed—and I think this might be of help to the committee—after much study, debate and deliberation. The history of this, as you may have noted from the compendium of information, dates back to discussions that started at council level in 1987. It has taken a number of years to get to this particular stage, and although there are undoubtedly other options available, the option that is before the committee and phrased in Bill Pr106 is that which is currently the wish of the residents, as representative on the current county council.

On behalf of the applicant, I would therefore respectfully ask that this committee favourably consider the bill that's before it. I would ask that it do so, as Mr Hodgson has indicated, as expeditiously as possible because of the forthcoming municipal election in the fall of this year.

There are indeed streamlining advantages, there are the economic savings to be borne by the implementation of the new bylaw and the new act.

I am available, Madam Chair, as are the warden and the clerk, should there be any questions that you or the other members of committee might have.

The Chair: Thank you. At this point I would ask if the other interested parties would please come forward: Mr Young, Mr Chester, and Mr MacKay.

Mr Hodgson: Mr MacKay is not here.

The Chair: Members should be advised that in your package there is in fact a note from Mr MacKay, but I don't believe it states his particular objection or concern. Mr Hodgson, maybe you could return to your seat and then allow the other interested parties to come forward. Please introduce yourself for the purposes of Hansard.

Mr Bryce Young: Ladies and gentlemen, my name is Bryce Young, a resident of Victoria county. I'm here to support the county's request as outlined in its application.

In order to establish some credibility with you, it seems appropriate to tell you that I was a member of county council from 1982 to 1991 and was warden in 1987 and again in 1991. During this latter period I was chairman of the county steering committee on county government.

It is also pertinent to tell you that I served on the board of ACRO for three years and became quite familiar with the various reasons and the need for significant

changes to the county's system of government.

The private member's bill before you is a small step being taken by the county of Victoria to correct to some extent the inequities that currently exist regarding representation on county council. This step took three or four years to get before you and several years before that.

Even though it may appear to be a short-term fix and primarily to control the size of county council, for you to reject it would accomplish nothing for anyone. To send it back for reconsideration would simply defer the issue for another three or four years, because this fall we'll have a new council.

The long-term resolution of the inequities of representation on county councils across this province rests here with the provincial Legislature. I'll try to elaborate on that statement.

Firstly, the province created the counties and regions in the province of Ontario and established the rules by which they would function. However, many changes have evolved over the last century, in particular the uneven population growth within the counties, hence the inequities of representation that we have today.

Whenever inequities appear in either federal or provincial electoral ridings, appropriate boundary adjustments are made as an acceptable democratic process. Yet counties are asked and, I must say, very democratically, to resolve these same inequities themselves within their counties. This generally would mean the restructuring of many of the municipalities and amalgamations of those municipalities within the county.

At the same time this would mean the elimination of many of the members sitting in county council who are voting on that issue: elimination of their own position. This is not likely to happen. As an example, you have a deputy reeve who sits beside the reeve; they've been good friends for years. Which one of them is going to vote to throw the other one out? It's not going to happen.

1200

It is my opinion that if the inequities of representation by population can be resolved, then all other matters, such as county responsibilities versus lower-tier responsibilities, will be resolved internally. I would therefore strongly recommend that the province, prior to enacting appropriate legislation, conduct a poll of the counties, perhaps through the Association of Counties and Regions of Ontario, offering two alternatives, one of which much be chosen.

They would be generally as follows: The county be divided into, say, six divisions or wards, with each having approximately the same electorate. The boundaries could be a combination of geographical and/or municipal. Each division or ward would elect members to county council, perhaps two or three each.

I put a note in here where I was claiming some credit for Victoria county and I now have learned that it really was provincial legislation, but Victoria county had this system from 1897 to 1907. I was saying "ahead of our time," but it was provincial legislation. It was indeed ahead of its time because of transportation and communication and so on, but it may well be very appropriate

today. The other option would be for the county to restructure its internal boundaries through amalgamations to achieve equitable representation by population both by actual representatives, ie, a maximum of, say, 20, and/or multiple votes.

If the province is to poll the counties, then the question should be restricted to this one vital question: representation by population. It should not be loaded up with a lot of other problems. It shouldn't become a Charlottetown accord.

I understand how the Ministry of Municipal Affairs, for instance, might want to take this opportunity to resolve some other matters. As a matter of fact, when I was writing this, I thought, "What a great opportunity to resolve this question of term of office for a warden," which I happen to think should be three years, or term of council, and I had it in here under one of these options. Now I know what counties go through and I thought, "No, hey, take it out of there." This question has to be dealt with on one principle: representation by population or electorate.

The results of that kind of poll could form the basis for appropriate legislation which should not and need not be partisan in nature, because the principle of equitable representation by population is universally accepted and embraced by the people in the province of Ontario and therefore should not become a political hot potato for candidates in a provincial election campaign.

Unfortunately, in 1990-91, when our county was struggling to restructure, the whole subject became a political issue. But if you restrict the question to representation by population, it should not become a political issue for anyone.

The Victoria county private member's bill should be supported by all of you, but you, the province, must act to resolve this long-term issue of representation by population.

Mr Lorne Chester: I'm pleased to be before you today. Mr Young and I agree on a couple of things anyway. I would agree with his initial remarks where he felt that the bill before you is a small step. I think the clerk has distributed to you my proposal, which in effect, to make a long story short, basically amends section 2 of the proposed bill.

I have a different idea. I would take Mr Young's comments about inequities several steps further. The net effect of my proposal is not to eliminate any municipalities but to eliminate all the deputy reeves. On the last page of my proposal, I've given you a very brief rationale, and I'll expand on that very briefly, of what my proposal or amendment with respect to section 2 will do.

It will effectively eliminate all the deputy reeves. The composition of county council will go from 28 down to 18, thereby saving substantial sums of money and also, in my respectful submission, making county council a more effective voice. Also, it will give each of the existing municipalities in the county, however small, one vote. For instance, Sturgeon Point, which is still probably the smallest municipality in Ontario, would retain its one vote on county council.

What it tries to address is what Mr Young referred to as the inequities. It tries to reflect the existing situation in the county of Victoria and provides for multiple votes, and I think it provides for multiple votes in a fair and representative way.

Who am I and why am I saying that, or what am I doing here? I was on municipal council in Lindsay for 15 years, 10 of which were as reeve, and as the reeve I sat on county council for 10 years. I was warden in 1985. I preceded Mr Young by a couple of years. I was mayor of Lindsay from 1988 to 1991 when Mr Young was chairing the steering committee on the restructuring of the county.

Right now I'm not on municipal council and I'm not intending to seek getting back on municipal council—I've done my time—but I think I can bring to the committee an objective viewpoint from both sides, having sat on county council and as mayor during the restructuring process.

It's that I'm concerned about, because the issue of the existing situation, which this bill tries to address in a small way, is that there are 28 members on county council now, if there is a recorded vote it goes up to approximately 32, and that leaves Lindsay with one eighth of the voting power on the present county council—I'm using relative, general terms, but it's approximately one eighth—when it has one quarter or 25% of the population, 25% of the municipal electors, and pays 25% of the financial tab to run the county. One of the inequities, if not the major inequity, that Mr Young has referred to in his submission to you is the fact that the town of Lindsay, in my respectful submission, having been there for a long time, is not getting its fair representation.

The amendment I'm proposing in section 2 for your consideration will not mean that the town of Lindsay will be able to gang up on the village of Sturgeon Point. It's only going to allow the town of Lindsay to have a fair representation. If the rural municipalities think something that's beneficial for the town of Lindsay, being an urban area, is not beneficial for the rural area, there will be plenty of votes to overcome any kind of power grab they see coming from the town of Lindsay.

It provides for multiple votes for the reeves, and the net effect would be that the reeve of the town of Lindsay would have the most votes, but he or she would be far short of coming anywhere near 50%. It would be closer to the 25% that reflects both the electing population and who pays the financial freight.

It's my respectful submission to the committee that if you vote against my proposed amendment with respect to section 2, you're voting against the principle of representation by population. Thank you for the opportunity of making the submission.

1210

The Chair: Thank you, Mr Chester. Members have other correspondence in your package, and I hope you have taken time to review that. Mr Hayes, do you have comments to make on behalf of the Ministry of Municipal Affairs?

Mr Hayes: First of all, I'd like to read a letter that

was written by the Minister of Municipal Affairs to the warden of Victoria county, Ken Logan, on May 3, 1994. In that letter it says:

"I appreciate the background information regarding the county's rationale for pursuing a private bill to reduce the size of county council. While I applaud the county's attempts to realize cost savings through a reduction in the size of county council, I do not feel that such savings should be pursued at the expense of representation of population. I do not see equitable representation and cost savings as mutually exclusive. I feel that the county is faced with an opportunity to address both of these important issues.

"I'd like to reiterate my interest in the development of a local solution to the town of Lindsay's concerns with respect to representation at county council. I want Victoria and Lindsay to negotiate an agreement, under the Municipal Boundary Negotiations Act, that provides the town with equitable representation on county council. The boundary act process allows the parties a great deal of flexibility in negotiating a new system of representation at county council.

"Furthermore, I believe that the county and the town have the time to reach such an agreement under the boundary act before the municipal election is scheduled for this fall."

Therefore, Madam Chair, the Ministry of Municipal Affairs is not supporting this.

Mr Taras Myhal is here from the boundaries branch, if you wish to ask any questions about this, especially about the representation by population.

Mr Paul Johnson: When you had a vote in county council with regard to restructuring of the numbers within county council, was there an absolute agreement from all the representative townships? Were there any people opposing this bill?

Mr Clare McKay: I'm Clare McKay, the CAO-clerk of the county. If the question is, was the vote unanimous, the answer is no, it wasn't, but there was a majority who voted in favour of the action you see before you today.

Mr Paul Johnson: That's all I wanted to know, because I sponsored the bill that Hastings county brought forward and indeed there were some objectors and it wasn't unanimous. However, democracy prevailed and the majority of the members of the council agreed that they wanted the changes. On that basis, I felt it was important that their wishes be upheld.

Mr Hodgson: Is this similar to Hastings?

Mr McKay: I believe it is, except that I believe Hastings had 4,000 as the threshold and ours is 5,000.

Mr Paul Johnson: Mr Hodgson obviously worked on this for some time, although he is the member representing Victoria-Haliburton now, knowing that he was previously also the warden of Victoria—

Mr Hodgson: I was the warden of Haliburton county. This is the other county. I represent two county councils.

Mr Paul Johnson: I stand corrected, and it's good to know that.

Mr O'Neil: Mr Eddy has raised this same issue on

many occasions, that a county council puts something like this to be studied and then makes a decision, and then they come up here and it's turned down by the ministry. That's a concern to me.

The other concern is that when we have the people from the county of Victoria preparing this private member's bill and it gets this far, that they come before the committee, why isn't there some sort of negotiating or things taken back to the county that, "If you were to do this, maybe this thing would get through"? Has that happened? Were there discussions?

Mr Hayes: I just read out the suggestion the minister had made to the county on how to deal with this issue.

Mr O'Neil: Is that as far as it went?

Mr Hayes: I don't know if it went any further. I just want to add about Hastings—and there are other counties—that Grey and Hastings proceeded in fall 1993 to downsize their councils by applying for and achieving private legislation. The county of Essex asked for similar legislation and received it. Also, the county of Dufferin's bill was approved, as amended, on May 11.

Although some local municipalities within these counties objected to these proposals, the committee recognized that the bills represented the local will, reflected in the vote of the duly elected county council. But in addition, the proposals met the criteria used by the ministry to review representational issues, foremost of which is that the proposals improve representation by population. We feel that this does not. I ask Taras Myhal to address that particular issue.

Mr Taras Myhal: Taras Myhal, from the Ministry of Municipal Affairs. If you look at the proposed voting structure under the bill, the variation from electors per vote would be greater than it is under the current county voting system at county council. We've done a calculation of that. The variation, if you looked at all 18 municipalities, is an average of 40.8% off the norm, in the current system, it's 30.6% variation off the norm, so it would be harming it by 10% or so.

Mr Hodgson: Are you referring to appendix 5?

The Chair: Mr Myhal is referring to another chart he has, which possibly we could get copied, because I do not believe any of us has that in our package and I think we should all basically be speaking from the same information. I ask the clerk to see that it is copied. Under the circumstances, we'll give her a few minutes to do that. Is there another point that you wish to raise, Mr Myhal?

Mr Myhal: I'd just like to say that under the Municipal Boundary Negotiations Act, a meeting took place last Thursday at Victoria county that discussed the issue of changing county council to reflect both representation by population as well as cost-savings issues. Discussions have begun on that letter that had been sent by the minister on May 3.

Mr Hodgson: What year did they start these talks in Victoria county? What was it, 1978, 1980?

Ms Laurie McLean: Madam Chair, 1987 is the date that the restructuring of county council is documented as having been formally before the council.

This is the first indication that has been given to me that MMA has these concerns to this extent with respect to this issue. There are certainly other issues that MMA is involved with in discussion with the town of Lindsay, with the township of Ops. The only indication I had on this issue was in a letter from this committee's legislative counsel back on March 24, 1994, that the draft bill had been circulated or distributed to the Minister of Municipal Affairs for comment. No such comments have ever been received by me.

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Although I appreciate that some of the concern that's being expressed is for better representation by population for the town of Lindsay, the town of Lindsay has not, with all due respect, opposed this private bill. They're well aware that it's proceeding, and if one reviews the compendium of background information and the recorded vote that was there taken, the representatives of the town of Lindsay were indeed among those voting in favour of the proposed reduction in numbers.

Although it is, I grant you and as has been admitted, a small step, the fact is that under Bill Pr106, the town of Lindsay's overall representation by way of vote will be greater than it is right now. It's not my intent to convey that that was the intent of this bill; it was not. This bill was designed to control and reduce the numbers on council. But incidental to that is a greater representation in terms of overall vote for the town of Lindsay. Therefore, by approving this bill, this committee is not defeating in any way the desire, if MMA wishes to proceed that way, of encouraging increased representation for the town of Lindsay on county council.

This bill would be and its approval would be, in time for the next election, a step forward. Certainly negotiations can still be carried on, but with all due respect, if those negotiations are as recent as last Friday, one questions whether there are going to be decisions made and in place in time to deal with the very practical financial implications. County council chambers may well have to be enlarged to accommodate the number of councillors who would be elected if the existing County of Victoria Act, 1972, is not amended. That's the reality.

Mr Myhal: On the question of representation by population, while there is a marginal improvement for the town of Lindsay, the chart will show—and the charts will be coming in a minute—that there is an average of about 10% representation by population for all 18 municipalities that is harmed by this particular proposal.

Mr Fletcher: One of the problems I had with some of the previous municipalities that came in asking for the same thing was the number of votes the larger portions of the municipality had. This is probably a step better than what was there in 1972, but the deputy reeve and the reeve having two votes when you get into a municipality that has a larger population is my biggest concern, the possibility of the larger centres having more votes and possibly making decisions that the smaller centres don't really wish to have. That's more my concern than anything else.

I expressed that concern last time, when we had the Grey-Bruce or the Bruce area. That's why I voted against

that one: not because of the cutting down or anything else, but that one area where there could be a ganging up, if you wish. I don't know what kind of politics could be played in the municipality, but that is my biggest concern: the possibility of the wishes of the larger being imposed on the smaller. For that reason, I have concerns about this private member's bill.

The Chair: Mr Myhal, since the chart has been distributed to members, could you possibly explain it?

Mr Myhal: I'll go through very briefly what's presented here. The 18 municipalities that comprise Victoria county are listed on the left side. The two important columns, I believe, are the ones entitled "Variation." Under the current county council system, if electors per vote are looked at, in other words, if there were true representation by population based on electors, the variation should be 0%, but it's 30.6% if you look at all the municipalities. If you go to the proposed variation column, right at the end, the bottom figure is 40.8%. So with all 18 municipalities under the proposed system, the variation from the true representation by population would be 40.8%. That's the nature of the change in representation by population.

Mr Hodgson: I have a quick question relating to clarification. There's no requirement under the Municipal Act to fix representation by population on the upper tier of voting. There is none. Second, to look at what Mr Fletcher said related to this chart, Sturgeon Point has 270 people. They have a 92% variance. It's out of whack.

Last week he wouldn't allow the Bruce county proposal because it dealt too much with rep by pop. This week you won't allow it because it doesn't deal with rep by pop. I don't know how you can have it both ways. Mr Fletcher disagreed last week, in agreement with Municipal Affairs, that you couldn't go along with rep by pop, and this week we have a bill that's completely the opposite of that and they're saying they're in disagreement with that. That's related to this chart, by the way.

The Chair: Mr Hodgson, you had jumped the queue, but I will now turn to Mr Eddy.

Mr Eddy: Mr Hodgson can go ahead of me on a point like that because he's right on and I appreciate that he's raised it. He said, "You can't have it both ways," but unfortunately the Ministry against Municipal Affairs can have it both ways, and here's a case in point.

The other point I'd like to raise briefly is representation by population. We don't have it in the upper tiers. The ministry can't bring it in and won't face up to it. How about having representation by population in Hamilton-Wentworth, where the city of Hamilton is approaching 400,000 and the rest of the municipality's 100,000? How about having it in Lambton, where the city of Sarnia is so much larger? You can't have rep by pop unless you go to a decimal voting system. The ministry won't face up to it. All they do is come and knock these down.

What we're faced with here is an application from a county council that has been dealing with this matter a long, long time. They've come to a compromise position, and I want to commend the Victoria county council for

deciding to reduce its membership. They have a great diversity in the population of the municipalities. Sturgeon Point was mentioned, the smallest municipality in the province. I suppose there's a solution to that situation—I didn't say "problem," I said "situation"—but I think that's up to Victoria county council to deal with, or the citizens of Victoria county.

I very much support the application. The ministry has alternatives. There is a system that's been in use in the province for many years for counties. There are two variations to that. Neither of those variations brings about rep by pop; in fact, they could very well distort it, as I believe the ministry has pointed out this one does. But it's with the blessing of the Ministry of Municipal Affairs, because it's in the Municipal Act, and the thrust is to make county councils smaller in size and therefore more efficient and the many things that go along with that, which I support.

If the members—and some of you do, probably—realize the agony that goes into these decisions to actually reduce the size of county council and to dispossess people—now, the minister has no compunction about doing that because we saw in the case of Westminster and London and the public utilities commission that it was done in the middle of a term. This at least fits in with the municipal term of office.

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It is a step forward. It's the decision and the request of Victoria county council. There's no opposition to it. There is an alternative that's presented, which I appreciate having the opportunity to look at. Maybe it will be presented to Victoria county council and maybe, under the Municipal Boundary Negotiations Act, which has been ignored by the minister in many other cases, conveniently—former minister, sorry—something will come of that. We'll ask that it be considered by the council, but this is in time for the election coming up later this year and will therefore give the county the advantage of having a term under this new system to see how it works. I'm sure it will.

I'm at a loss to know why the minister is invoking the Municipal Boundary Negotiations Act. Is that what it is, on this occasion? It's a misuse of the act, although I'm not surprised because, as I say, we saw a previous minister go right around it and ignore the law of the province. I'm not surprised, perhaps, at anything.

I hope the members will seriously consider this. I'm very much in support of it, and I would ask the ministry to please look at the Municipal Act and, for God's sake and for the sake of the citizens of counties and upper tiers, to bring in the system that they really want and then go out and try to sell it to the counties, because this is ridiculous. Counties do not know where they're at under the present system.

Mr Chester: I just wish to respond to a couple of points that were raised. This committee has a real opportunity here to effect some real change. You have the numbers in front of you, even the ministry's numbers, and it won't take much for each one of you to take a look at those numbers and say, "Well, let's do something about this." This bill that's before you does something

about it. It may be a small step, but it does something about it. You have the chance here in passing the bill, or any amendment, to take it to the House, to make some change in the province of Ontario, and in particular to the county of Victoria.

I urge upon you to take a look at the numbers yourselves. If you're not satisfied with what I say or what Mr Young says, or anybody else on behalf of the applicant, look at it yourself. Don't toss it off and throw it away.

With respect to Mr O'Neil's original question, the Ministry of Municipal Affairs has indirectly been involved since 1987, when I was on county council, and directly involved since 1989 with the report that was prepared by Charles Tatham. That was circulated to all the counties and they had to go through this gut-wrenching system of trying to look at and analyse themselves. It's very difficult for anybody to analyse themselves internally, but they went through that process and the Ministry of Municipal Affairs was directly involved at that time with that whole process. So it's been since 1989 that they've had direct involvement. That's five years to do something about this situation if it's such a problem.

Finally, as far as Mr Fletcher's comment, he's concerned about the larger will being imposed upon the smaller municipalities—or the smaller will—again I get back to the point that Lindsay is the only major urban area and we're not going to be giving Lindsay 50% or 49% or 40% representation. We're giving Lindsay what it deserves as far as representation by population is concerned. The rural municipalities, if they're that concerned about it, can gang up on Lindsay at any time. It's to try and bring back some fairness to the system, and you have an opportunity to sit back and look at the numbers and bring fairness in. I hope that you do not derogate from that responsibility.

Mrs MacKinnon: I think maybe Mr Eddy might have gotten around to some of my question; however, I want to put it anyway. Does the county of Victoria—it is Victoria; it's not Victoria-Grey, right?—have a problem with the idea of renegotiating or negotiating, whichever you want to call it, the boundaries of your county? Does that give you a problem?

Mr Hodgson: Everybody has a problem with that. The point here is that this restricts not only the present council down to 23, but it stops the future growth. The Victoria county structure right now was done by a private bill back in 1972, and this replaces that. They'll have to build bigger council chambers. This fall there's a municipal election, and the number won't be 28. There's an escalator based on how they presently do it, which will make the size of county council grow. I'll let Laurie deal specifically with the boundary changes, but this act deals with the future growth of county council and to restrict the cost for this fall. Go ahead, Laurie.

Mrs MacKinnon: I'm still confused.

Mr Hodgson: Laurie wants the answer to the specific boundary question.

Ms Laurie McLean: I believe the question asked was whether the county of Victoria opposes negotiation. It doesn't oppose negotiation of any kind and in fact is

party to negotiations. But it does take two sides to negotiate, and someone has to ask you to negotiate. No one has asked us, save for the comment that the minister is making, to negotiate a change to the bill that's before the committee. Quite frankly and with all due respect to Mr Chester, I haven't even today seen his proposal. So no one has come forward and said, "The solution to the problem: County of Victoria, please negotiate and change the way you're constituted." That isn't what's come forward.

Certainly, there's a city status application by the town of Lindsay, and that is muddying the waters, with all due respect. If the town of Lindsay had a problem with this bill, I dare say the town of Lindsay—because they do have a council, they have a CAO; they also have legal counsel—would be opposing this; they're not.

I'm hearing the ministry officials this afternoon say that they're relying on the Municipal Boundary Negotiations Act. We're not changing the physical geographic boundaries of the county of Victoria. No one is asking us to do that. The town of Lindsay is situate right in it, so there is no question that the physical boundaries of the county of Victoria are being changed.

I do not know, because there have been no discussions with me, what sections of this Municipal Boundary Negotiations Act the ministry is suggesting you should be refusing our bill on because it's in here and we're not negotiating. If they could tell me where in this act there is something that says that a county not changing any physical boundaries is subject to this act and should have its constitution and composition changed—

Mr Eddy: It's under (b).

The Chair: I would like to turn to the ministry staff, if they would then respond to Ms McLean's question.

Mr Myhal: Is the question what section of the Municipal Boundary Negotiations Act we're negotiating under?

Ms Laurie McLean: No. First of all, I don't know who you're negotiating with, but on the basis of what section of this act are you basing your authority to say, "This bill should be denied because it does not comply with this act"?

Mr Myhal: Which act are you holding up there? I'm sorry.

Ms Laurie McLean: The Municipal Boundary Negotiations Act, RSO 1990, Chapter M.49.

Mr Myhal: Okay. There are concurrent boundary negotiations that have been going on between the town of Lindsay and the township of Ops, right?

Ms Laurie McLean: Correct; neither of them are here.

Mr Myhal: A letter of the minister in May 1994 discussed the ability of resolving the county representation issue through those particular negotiations that are going on, concurrent with them. I think that's the opportunity we're taking here.

Ms Laurie McLean: I just wanted to know what section under here we're following so I can look at it and see if there is something that's binding the county to negotiations between the township of Ops and the town

of Lindsay.

Mr Tom Melville: Tom Melville, Ministry of Municipal Affairs. I don't have the act in front of me, and I can't speak to whether there are any party municipalities in respect of any negotiation now, but if there is a party municipality to a negotiation under that act, under paragraph 14(b)(15) the minister can make an order providing for the composition of council of a party municipality.

Ms Laurie McLean: The county of Victoria is not a party to that negotiation.

Mr Hodgson: This is nonsense.

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The Chair: Mr Hodgson, excuse me. We have Mr Klopp and then Mr Eddy, and I think at that point we should probably ask the question if people are prepared to vote.

Mr Paul Klopp (Huron): Sure, I'm getting hungry. I'm sorry I haven't been in on this and I'm no expert by any means, but there was a question earlier when I got caught in the conversations here. You mentioned that maybe you'd like some more information on or clarification—you've asked a number of questions but there was one that seemed to hit.

All I'm going to ask you is, after listening to the ministry, do you need more clarification or are you prepared to have a vote right now, yea or nay?

Ms Laurie McLean: The bill is what has been approved by resolution of the council of the county of Victoria and it is before this committee.

Mr Klopp: We've had a lot of questions here, you've done your best to answer and the committee's answered, and back and forth, so if there's a vote today you'd live with the way the bill is?

The Chair: And the answer is?

Ms Laurie McLean: The answer—I'm sorry, Madam Chair—is yes.

Mr Klopp: Because there is an option. You could ask to stand the bill down today. If there are a couple of questions you want to talk about, that's fine. I just want to find out where you guys are at.

Ms Laurie McLean: The answer is yes, we're prepared to proceed. If we are defeated on the basis of some piece of legislation that hasn't been substantiated to us, we want those answers. So yes, we still want answers.

Mr Klopp: I quite understand that. Thank you.

Ms Laurie McLean: But in terms of the county's position, we must have an answer to this. I know the suggestion was made that some other municipalities did proceed at an earlier date. We in Victoria-Haliburton riding, as I think the members of this committee will probably be more aware of than some other members of the House because of the recent addition to the House of Mr Hodgson, did sit for many months without a member.

In fact, when the former member, Rev Drainville, was sitting, he had indeed agreed to sponsor this bill and it was all set to come forward at that time. It was after I had received his commitment that it would come forward that he—whatever the sequence was—resigned from the party and then resigned from the House.

Mr Hodgson: I don't think it was about the bill.

Ms Laurie McLean: It's not over this bill, but it also was not that the county was doing nothing in the interim.

Mr Klopp: Madam Chair, in light of that—

The Chair: Excuse me, ladies and gentlemen.

Mr Klopp: —I would push that we just call the question, as I think we've had lots of discussion, and let's just call the vote.

Mr Eddy: I think it's improper for Mr Klopp to have his speech when you mentioned two of us speaking; he's had his say and then it closes it off.

The Chair: Mr Eddy, he was recognized and he is subbed in on this committee. He has every right to have his say, the same way as others do.

Interjections.

The Chair: We do try to keep the heckles down to a dull roar, and in this room it becomes a roar very quickly. So we would ask Mr Klopp to keep that also in mind.

My last speaker on the list is Mr Eddy, and I know brevity will be your guideline.

Mr Eddy: Thank you, Madam Chair, for the pleasant way in which you chair this meeting and always bring us back to order so pleasantly. We do appreciate that.

The reason, of course, you were without a member for so long was that the Premier would not exercise his authority and call it until the time limit was up, and that's most unfortunate.

The ministry has mentioned the boundaries negotiations act. All I wanted to say, very briefly, is if it does proceed to some kind of a conclusion, if there's a change in the boundaries, then the ministry can very easily decide to change the representation to reflect that, when the bill comes forward regarding Ops and the town of Lindsay. It could happen in the middle of the term, even. That change can be tied in with that and doesn't necessarily have to affect this.

I think the opening that the ministry is saying is still there even if this bill is passed; that's all I want to say. Thank you very much for this last opportunity.

Mr Hayes: Actually I was going to get political here and I'm not going to. I'm going to suggest if Mr Eddy wants to continually bring up examples of things he doesn't agree with in this government, maybe I'll bring a list of some of the screwups that you guys have made over the years.

Mr Eddy: We paid for it in 1990.

The Chair: On that note—no, no.

Mr Hayes: Deal with the issues, is what I'm saying.

The Chair: We are trying to keep this on an even

keel and appreciate members when they do that as opposed to destroying that. Thank you.

I would ask members if at this point they are prepared to vote. Agreed.

Shall sections 1 through 6 carry?

Interjections.

The Chair: I'm going to go through section by section, then.

Shall section 1 carry? The ayes have it.

Mr Hodgson: It was carried?

The Chair: It was carried.

Shall section 2 carry? There was a nay. Excuse me. I must confer with the clerk here a moment.

Mr Fletcher: Let's do it by hand.

The Chair: Shall section 1 carry?

Interjection: Recorded vote.

The Chair: Shall section 1 carry? Those in favour, please signify.

Ayes

Eddy, Hodgson, Johnson (Prince Edward-Lennox-South Hastings), Klopp, O'Neil (Quinte).

The Chair: Those opposed?

Nays

Fletcher, Hayes, MacKinnon.

The Chair: The ayes have it.

Shall section 2 carry? Same vote.

Shall section 3 carry? Same vote.

Shall section 4 carry? Same vote.

Shall section 5 carry? Same vote.

Shall section 6 carry? Same vote.

Shall the preamble carry? Same vote.

Shall the title carry? Same vote.

Shall the bill carry? Same vote.

Shall I report the bill to the House? Same vote.

WITHDRAWAL OF BILL Pr62

Mr Fletcher: Madam Chair, under other business, I move that Bill Pr62, An Act respecting the City of Stoney Creek, be not reported, it having been withdrawn at the request of the applicant.

The Chair: Would all members, having heard the motion, please signify if they are in favour. Any in opposition? That motion is carried.

I would remind all members that we will meet at 9:30 next Wednesday. I would also like to tell the committee that the reports on the regulations will be tabled tomorrow. That was our work of early in May. I want to thank all members for their patience and work today.

The committee adjourned at 1248.

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- Mills, Gordon (Durham East/-Est ND)
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- Perruzza, Anthony (Downsview ND)
- *Ruprecht, Tony (Parkdale L)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Johnson, Paul R. (Prince Edward-Lennox-South Hastings/ Prince Edward-Lennox-Hastings-Sud ND)
for Mr Perruzza
Klopp, Paul (Huron ND) for Mr Mills

Also taking part / Autres participants et participantes:

Dias, Celine, legal counsel, Ministry of the Solicitor General and Correctional Services
Ministry of Culture, Tourism and Recreation:
Larmer, Sheila, manager, libraries and community information branch
Kashul, Paula, legal counsel
Ministry of Municipal Affairs:
Gray, Linda, legislation coordinator, government liaison unit
Hayes, Pat, parliamentary assistant to minister
Tom Melville, solicitor, corporate resources management
Myhal, Taras, negotiator, municipal boundaries branch

Clerk / Greffière: Grannum, Tonia

Staff / Personnel: Klein, Susan, legislative counsel

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Wednesday 15 June 1994

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Mercredi 15 juin 1994

Standing committee on
regulations and private bills

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
REGULATIONS AND PRIVATE BILLS

Wednesday 15 June 1994

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS
ET DES PROJETS DE LOI PRIVÉS

Mercredi 15 juin 1994

The committee met at 0937 in committee room 1.

The Chair (Ms Christel Haeck): I remind all in attendance today that this room does some rather strange things with noise. For the Chair's assistance, try to keep your individual caucuses or conversations to a minimum. If you feel you have to have a long discussion with someone, I would ask you to go out in the hall. I ask everyone to be considerate of all members and all other witnesses and participants who are here this morning.

I would also like to remind all presenters, the people who are listed as interested parties particularly, that in the interests of time the clerk has already advised you that your presentations must be short. I'm referring particularly to Bill Pr43, where we have a great many interested parties who wish to come forward. The clerk and her staff have reminded you that your presentations should be between one and two minutes long. I appreciate the fact that you will do that for us all.

TOWNSHIP OF SEYMOUR ACT, 1994

Consideration of Bill Pr124, An Act respecting the Township of Seymour.

The Chair: Our first order of business is to call Bill Pr124. I ask Mrs Fawcett to come forward with her applicant and when she is seated to feel free to make some opening remarks and to introduce the applicant.

Mrs Joan M. Fawcett (Northumberland): I have with me Raymond Mikkola, the solicitor representing the Algonquin Power Corporation. What we are going to ask this morning is that because of events that have happened just recently, the people would like a little more time. I believe they have already spoken to the Ministry of Finance and the Ministry of Municipal Affairs. Some more deliberations have to take place and we would really appreciate a deferral at this moment. We would like this deferred until next week. If you would like more information, I'm sure Mr Mikkola can answer any further questions.

The Chair: Mr Mikkola, do you have anything more to add? Some members are prepared to make that motion for you if that meets with your needs right at this time.

Mr Raymond Mikkola: Yes. Thank you.

Mr Derek Fletcher (Guelph): Is a week's deferral what you're asking for? Did I hear one week?

Mrs Fawcett: Yes.

Mr Fletcher: So this would come back next Wednesday. Do we have a full agenda next Wednesday?

The Chair: A very full agenda, Mr Fletcher. In fact, I have a letter, which I will ask the clerk to distribute to

all members, that relates to our committee time next week, to actually extend it to accommodate the many bills before us.

Mr Fletcher: Parliamentary assistant, is a week's deferral satisfactory with the ministry?

Mr Pat Hayes (Essex-Kent): Yes, it is satisfactory with the ministry.

Mr Fletcher: Then I move a one-week deferral.

Mr Hugh O'Neil (Quinte): As far as we're concerned, that's fine also.

The Chair: The motion before members is for deferral of one week. Would members indicate if they are in agreement. Agreed.

YOUNG MEN'S CHRISTIAN ASSOCIATION
OF CAMBRIDGE ACT, 1994

Consideration of Bill Pr120, An Act respecting the Young Men's Christian Association of Cambridge.

The Chair: Our next order of business is Bill Pr120. Mr Fletcher will be acting on behalf of Mr Cooper.

Mr Ron Hansen (Lincoln): I was just talking to Mr Cooper. He was going to be here for 10 o'clock because some of the members are usually here at 10 o'clock. I think there's a little confusion because it's 9:30.

Mrs Ellen MacKinnon (Lambton): They knew a week ago.

The Chair: The only concession I could make, if members are in agreement, is that we revise the agenda and call Bill Pr119 first.

Mr Hayes: Madam Chair, I understand they want to defer this until the fall.

The Chair: Oh, I see. There may be a deferral here as well. Mr Fletcher?

Mr Fletcher: On behalf of Mr Mike Cooper, MPP for Kitchener-Wilmot, I'm pleased to present Bill Pr120, An Act respecting the Young Men's Christian Association of Cambridge. With me is Donovan Pavey, who is a solicitor. He will be carrying it from here.

Mr Donovan Pavey: At this time I would request a deferral of this bill as a result of discussions with the Ministry of Municipal Affairs and the Ministry of Finance. We would like to approach Waterloo region and also the Waterloo County Board of Education to obtain their support. It will take some time to do that because of their heavy agendas and the upcoming summer months. I'm asking for a deferral until the fall of this year.

The Chair: Thank you, Mr Pavey. I believe we have an interested citizen here.

Mr Bill Irving: Since they've asked for a deferral, there's probably no use putting my argument at the minute, but I'd like it noted that the United Kingdom Club of Cambridge objects to the YMCA at this time getting any tax-free status due to a conflict we have with Cambridge council. We believe that council has no credibility in the method it's using to grant tax-exempt status. However, since it's deferred at the minute, I'll put my argument aside.

The Chair: Mr Irving, I appreciate your comment. I would ask that in the interim you work with Mr Pavey and the city to try to resolve those issues. Obviously, you will have some months in which to do that.

Mrs MacKinnon: I'll move a motion that it be deferred until the fall.

The Chair: There's a motion on the floor for a deferral. All those in favour, please indicate. So done. I hope it can be amicably resolved.

TOWN OF ORANGEVILLE ACT, 1994

Consideration of Bill Pr119, An Act respecting the Town of Orangeville.

The Chair: Our next order of business is Bill Pr119. Mr Tilson, along with the applicant, please.

Mr David Tilson (Dufferin-Peel): I would like to introduce to you the delegation from the town of Orangeville to make its presentation with respect to this private bill. Pat Moyle is the chief administrative officer for the town of Orangeville. Mary Rose is the mayor of Orangeville. Patricia Sproule Ward is the solicitor for the town of Orangeville. Janice Gooding is the reeve of the town of Orangeville. Patricia Sproule Ward will be making the presentation to the members of the committee.

Ms Patricia Sproule Ward: As the committee may know, the town of Orangeville was incorporated by private legislation in 1873. It was incorporated in that way because it did not meet the population requirements under the predecessor to the Municipal Act, which would allow a village to be erected into a town. Part of the bill said that the town was to be treated as if it had been incorporated under the Municipal Act, but another section in the bill stated that the town council was to be composed of a mayor, a reeve and two councillors from each ward.

The town of Orangeville has consistently governed itself as if it had been governed by the Municipal Act and in fact since 1898 has elected its councils subject to the provisions of the Municipal Act and what is allowed in terms of the composition of council since that time.

What we're asking for today is to have the constituent legislation from 1873 amended so that the specific provision stating that council is to be composed of a mayor, reeve and two councillors from each ward be repealed and, in its place, a section indicating that the composition of council shall be governed by the Municipal Act.

In addition to that, we are then asking that the council for this upcoming election, in order to provide certainty for its electors, shall be composed of a mayor, reeve, deputy reeve and six councillors at large, which is how the council has been composed since—I'm not sure of the

exact date, but certainly since the turn of the century.

As well, we're asking that a clause be inserted so that if there is any question as to how council was composed, no action, resolution or bylaw passed by the town of Orangeville since its incorporation in 1873 be deemed invalid only because of the composition of council.

The Chair: I would at this point ask if there are any other interested parties who wish to come forward to speak to this particular bill. Seeing none, I would ask Mr Hayes, the parliamentary assistant to Municipal Affairs, to make comments.

Mr Hayes: The Ministry of Municipal Affairs does not have any objections to this bill.

The Chair: Are there any questions on behalf of the members at this time?

Mr Hansen: I haven't any questions, but if Mr Tilson brought this forward, he must have investigated quite closely, so we'll support it.

The Chair: I'm quite sure he's happy for that Good Housekeeping Seal of Approval.

0950

Mrs MacKinnon: How many more times do we have to have bills come before us like this to spend our time on, when it seems to me there should be some provincial legislation that would just take care of the whole thing?

The Chair: I would ask, at this point, the parliamentary assistant to respond to Mrs MacKinnon's question.

Mr Hayes: I thought she asked you the question.

The Chair: You're the parliamentary assistant, and be careful; I have the gavel.

Mr Hayes: In this particular case, this was private legislation to begin with, and it changed to turn that around, I guess, to revise it. Whether it was an error or not made back in 1988, it's outside the Municipal Act is really what it is, so that's why this is necessary.

Mrs MacKinnon: Am I to believe this is restructuring, but what this particular municipality wants as opposed to the restructuring we might order?

Mr Hayes: No. This is not really restructuring. It's changing the complement of the members of their council.

Mrs MacKinnon: I don't have any problem with that. It just seems to me we have a lot of these coming before us all the time.

Mr Hayes: No, not like this one.

Mrs MacKinnon: Oh, well, it's my job.

The Chair: Since there are no additional questions at this time, I would ask if members are ready to vote.

There is an amendment coming forward and it is currently being drafted. Perhaps we could have a quick five-minute recess to allow legislative counsel to take care of that.

The committee recessed from 0951 to 0958.

The Chair: I would like to call the standing committee on regulations and private bills back to order. We'll give it a minute for order to actually be achieved.

The clerk is currently distributing legislative counsel's amendments, and the town, I believe, is in agreement

with them. It's just cleaning up a couple of points of language. I would ask at this point for members to indicate if they are ready to vote on the bill. Agreed.

Since the amendment is relating to section 4, I will ask if sections 1 through 3 carry. Carried.

Mr Fletcher: I move that section 4 of the bill be struck out and the following substituted:

"Actions, resolutions and bylaws of councils not invalid

"4. No action taken, resolution made or bylaw passed by a council of the corporation before this act comes into force is invalid by virtue only that the council may not have been properly constituted."

The Chair: All members have heard the motion at this point. Please signify if you are in favour. Agreed? Anyone opposed? Seeing none, it's carried.

Shall section 4 carry, as amended? Agreed.

Shall sections 5 through 7 carry? Agreed.

Shall the preamble carry? Agreed.

Shall the title carry? Agreed.

Shall the bill, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Agreed.

Very good. The bill is carried, and I want to thank the various council members and the CAO from Orangeville for your time. I hope this meets your expectations. Thank you to Mr Tilson as well.

CITY OF TORONTO ACT, 1994

Consideration of Bill Pr43, An Act respecting the City of Toronto.

The Chair: Our next order of business is Bill Pr43. I would ask Mr Marchese to come forward and introduce the applicants.

Mr Rosario Marchese (Fort York): I'd like to introduce a number of people. Peter Tabuns is councillor, city of Toronto. We have Dennis Perlin, city solicitor, and Wayne Jackson, department of public works and environment, city of Toronto.

I'd like to say a few words before I leave the floor open for the others to make some comments, but in sponsoring the bill and in supporting it, I want to have one moment or two to say why. Obviously, the request to have a change in the Highway Traffic Act to allow the city of Toronto to be able to reduce the speed limit in some areas to 30 kilometres per hour, particularly in areas where there are traffic calming measures, in my view, is a good thing for a number of reasons.

The first point, however, I want to make is that change is difficult all of the time. Whenever we introduce a particular change, some people are upset by it, and some people obviously think this is a silly measure. I don't believe it's a silly measure. I think, on balance, that introducing such a measure will do a number of good things for the citizens of Toronto. In my view, it will make it a more livable city. Reducing traffic makes it a more pedestrian, people-oriented kind of measure. There is an instinct with drivers to drive five or 10 kilometres above the speed limit, and by reducing it to 30 kilometres

an hour in areas where we are introducing traffic calming measures, it makes it, in my view, a lot safer.

For the king of the road, the car, it's very difficult to be able to force it to slow down, and the driver himself or herself hates to be slowed down, but in the overall interest of citizens, in the overall interest of safety, this is good for everyone in the city of Toronto. Where it has been introduced in other parts of the world, I understand it has saved many lives. To make it a more livable city for people, to make it safer and to save lives, I think this is an important measure for us to be supporting.

The Chair: May I ask which of the delegation from Toronto would wish to speak first?

Mr Peter Tabuns: I'll be speaking first, Madam Chair. Mayor Rowlands isn't able to attend the committee today and, in her absence, has requested that I provide the committee with an overview of the legislation proposed by the city of Toronto respecting the implementation of the 30-kilometre-per-hour speed limits as an adjunct to traffic calming measures.

Each year, the city of Toronto and councillors such as myself receive requests from local residents respecting particular traffic problems in their neighbourhoods. Many of the problems are due merely to the greater volume of traffic on Toronto streets as a result of commuters from the area and neighbouring municipalities.

Some of these problems are magnified for a particular neighbourhood due to the discovery by motorists of a shortcut off the main arterial roads. Often resident groups will work together with the city to try and address these problems by implementing a traffic management plan. Sometimes such a plan may involve an alteration to the highway, such as the installation of planter boxes which may limit vehicular access, or involve the widening of a sidewalk or narrowing of the street.

The city is receiving more support for lower speed limits in residential areas and in particular where a neighbourhood or residents of a particular street are contemplating the implementation of traffic calming measures.

Traffic calming measures, together with a reduced speed limit of 30 kilometres per hour, will allow the city to exercise more control over vehicular use in the city and may be a catalyst to discourage unnecessary vehicular use.

Traffic calming is only one of a number of initiatives which the city's been implementing over the last number of years with respect to changing driver behaviour. The city of Toronto believes this legislation is necessary as an additional safety feature in implementing traffic calming measures within the city and can demonstrate that, with careful planning, the streets of Toronto can be utilized by pedestrians, bicycles and other vehicles more equitably and more beneficially.

I would like to speak briefly. There are a number of misconceptions about what we're doing and what we've proposed. It must be a slow month for news, because I got phoned by all kinds of radio stations yesterday with a wide variety of questions. There are a few things I want to clarify for the committee. One, we're not proposing to

reduce speed on a wholesale basis in Toronto. The day after you pass this legislation, you won't find driving down Yonge Street that it's now 30 kilometres per hour.

Our focus is residential streets where there is community support and where the roadway has been modified for traffic calming. There are a number of conditions that would be attached to any street where we would reduce the speed limit.

We hope to reduce the impact of traffic, noise, pollution and safety problems. The European experience, starting first in Germany and spreading to Switzerland, Holland and now Britain, is that traffic calming, packaged with what's called in Germany a Tempo 30 area really does cut air pollution by 10% to 50%, reduce fatalities and reduce injuries about 50%, and reduce noise. In Ontario, we have traffic calming now and we do it usually with stop signs, with turn restrictions, with mazes, with additional traffic lights. I've talked to some members who were formerly city councillors who went on to get away from traffic and parking problems, and I sympathize with those members, because we know the outcome of those measures: We get more stop-and-go traffic, we get more noise, we get more frustrated drivers.

We're looking to an approach that allows for a steady flow of traffic with a lower speed, which is the tradeoff in the residential areas. When you look at the European experience, they have reduced the number of stoplights and signs and replaced them with physical barriers and a lower speed limit. Initially in Germany when they first brought this in there was very low acceptance by drivers. I think one poll showed about 27%. After implementation, drivers polled approved by 67%, because you can do away with things like traffic mazes.

In any event, one other question that's come up is this whole question of whether or not this is enforceable. We have adopted the same position as European traffic planners, and that's that you can't just put 30 kilometres per hour down on a wide, straight, empty street and expect people to respect it. It won't happen and people would just simply ignore that law, which is why we are saying that we would not be proposing this for a street that was not modified to make it difficult to travel at a high rate of speed.

Anyway, I hope that clears up some misconceptions. I know Mr Perlin and Mr Jackson can go into more detail than I've gone into, but I'm happy to answer questions. I'll present Mr Perlin now, solicitor for the city of Toronto, who will provide some further background information.

Mr Dennis Perlin: I want to take just a couple of minutes in terms of the structure of the bill. You'll see a significant number of amendments that are coming forward after discussions with the ministries of Transportation, Municipal Affairs and the Solicitor General, and the Metro police and Metro, from what was, as you can see, a simple bill that gave us power to pass a bylaw with respect to 30 kilometres to one that makes very clear the position that Councillor Tabuns has put forward, so you will see in the new section 1 that 30 kilometres can only be put into effect if the street has been designated with street calming measures and street calming measures are

in effect. You'll see the revised section 1 that way, that the street has to be signed appropriately, what would be the penalties. This is a bylaw that will be a bylaw offence, not under the Highway Traffic Act, but the penalties will be only those that would be applicable to somebody who was convicted under the Highway Traffic Act, so it's the same number, so many dollars over a kilometre etc applies, not the maximum \$5,000 limit of a municipal bylaw offence. Then the powers are made clear in terms of only a police officer being able to enforce it, not, for example, a bylaw officer. So a moving violation can only be a police officer. Those are the amendments that are coming forward.

Most important, the final amendment, which is that this has a sunset, is a two-year proposal to see if it works. We've come to you before. For example, I was here about two years ago, you may remember, on vending and whether or not taking vending vehicles away etc, would cause great violence in the streets etc. It didn't and you were kind enough the next year to remove the sunset, but it had a sunset.

1010

When we're introducing new measures, if the sunset measures don't work, so be it, the bill would automatically come to an end. So if it's going to continue, it'll only continue with you at the Legislature saying so.

The last thing we have for you, and perhaps the clerk of the committee can hand them out, is that some people have asked me, "What are traffic calming measures?" We have some cross-sections in the report. I believe you have a copy of the supplementary report that was handed out in which council adopted the traffic calming policy for the city on May 30, but I don't believe the map was attached and perhaps I can hand that out, along with an actual cross-section of the first traffic calming project, which is Balliol Street-Mount Pleasant in Toronto, and it shows an actual street. One of these diagrams shows you some measures. This one on Balliol Street shows you an actual cross-section of the street.

Finally, we aren't going to see a lot of these projects. The Balliol project itself, for example, cost about \$300,000 to do, and a number of other projects will cost significantly less, but we are talking in the thousands of dollars. It's not something you can just do overnight. We're not going to see a massive number of them in the next couple of years, so you shouldn't expect that this is going to be a floodgate or something before you have a chance to review it to see how it's been working on these limited number of streets for the next two years.

The Chair: Thank you, Mr Perlin. I would say that members have actually your report dated May 30 and we have this sort of schematic here, but from my own package, I don't think we have the Balliol Street map, so that would be useful for members.

Mr Hansen: Yes, it's right here.

The Chair: No, this is not the Balliol, this is just basically the series of diagrams of the traffic calming measures. There's another street map, I believe, that Mr Perlin referred to, which the clerk is distributing for everyone's interest. I hope you brought some extras

because I suspect there are other people who will be interested.

Mr Perlin: Yes, there may be a few left.

The Chair: There may be a few extras. Okay, very good. Mr Jackson, at this point, did you have any additional comments to make?

Mr Wayne Jackson: Yes, I do. Thank you, Madam Chair, for inviting me here today to discuss this matter. The control of traffic through residential areas is not new to the city of Toronto. In fact, we've been involved in this game for well over 20 years. What is new is the method we now propose to use to control traffic.

Typically, residents' complaints about traffic on their streets are twofold. First of all, there's the traffic volume and/or there is the speed of traffic. In the past, we've addressed these complaints by a number of methods. We have prohibited movements on to certain streets either the entire day or for parts of the day. We have closed streets entirely. We have created one-way mazes.

These methods certainly have reduced the volume of traffic on these streets in question. However, they didn't necessarily reduce the speed and they always came at a cost. The cost was usually a high inconvenience, not only to the residents but also to service people and other people who had legitimate business in the area.

What we tried to do was to keep the good parts of this traffic control policy and get rid of the not-so-good parts. The method that holds the most promise at this point is what's called traffic calming. Traffic calming is usually thought of as the implementation of physical changes to local residential streets which slow down motor vehicles or reduce traffic volumes to make neighbourhoods safer and more community oriented.

These changes affect drivers' perceptions of the street and influence driver behaviour so that they drive more slowly. A traffic calming scheme typically includes some or all of the following measures: raised sections of road, changes of surface, texture or colour, road and lane narrowings, bicycle lanes, chicanes, traffic circles.

There are major advantages to traffic calming over our previous attempts at traffic control. Right off the bat, for the most part, roads are left open and accessible to all road users the entire day. At slower speeds, drivers have more opportunity to react to situations which may cause collisions, and even in those cases where there is a collision, the severity of the collision is usually reduced because of the slower speeds involved. This of course is particularly important in relation to pedestrians and cyclists. Traffic calming will contribute, along with other city initiatives, to a cleaner, greener and quieter environment, and traffic calming will help reduce the car domination of our neighbourhoods.

As Mr Perlin has said, council has endorsed traffic calming as an effective way of reducing traffic impacts on residential neighbourhoods in the city. In fact, council has gone so far as to endorse a pilot project incorporating many of the abovenoted traffic-calming measures. We've distributed the Balliol pilot project. Construction will begin on Balliol in August of this year and be finished by the end of October.

In preparation of both our traffic calming policy report and our pilot project work, we have enlisted the input of all emergency services, including the police department, we have talked to Metro Toronto, we've talked to the cycling community, we've talked to city and Metro planning departments; we've gone far and wide to get acceptance of the plan.

This is where the 30-kilometre-per-hour-speed-limit request comes in. Traffic calming tries to convey to the motorists that they are welcome to share the road in question, but they are asked to respect the fact that the roadway is a part of a residential community, where the actions of one group of users can adversely impact the health and enjoyment of other groups of users. The intention is to use the 30-kilometre-per-hour regulation as part and parcel of traffic calming schemes.

By itself, without the inclusion of other traffic calming measures, the 30-kilometre-per-hour regulation would be ineffective. However, in concert with the various traffic calming measures noted earlier, the 30-kilometre-per-hour regulation will guide motorists in the appropriate speed to travel the traffic calmed street. As can be seen from the Balliol example that I have distributed, the horizontal and vertical elements of the traffic calmed roadway are designed to demonstrate to the motorists that speeds in excess of 30 kilometres an hour are inappropriate.

In summary, I wish to make the following points: The 30-kilometre-per-hour regulatory speed limit is a part of a larger traffic calming initiative now being undertaken by the city of Toronto. There is a percentage of the population that will obey speed limit signs. We wish to capture this group of motorists. I'm not convinced enforcement is an issue in this matter. I remind you that every street in the city now has a speed limit which is enforced to the best of the abilities of the police.

There has been some discussion around using warning signs instead of the regulatory speed limit signs. In this regard, I note that the Manual of Uniform Traffic Control Devices for the province of Ontario, when discussing warning signs, states that:

"Warning signs, when used, shall indicate in advance conditions upon or adjacent to a street or highway that are potentially dangerous to the road user. However, the misuse of warning signs will promote disrespect for these, as well as other traffic control devices, and the use of such signs should therefore be kept to a minimum."

This aptly conveys my hesitation about using warning signs and my corresponding request for the regulatory 30-kilometre-per-hour speed limit.

The Chair: As we have a number of people who have already indicated they wish to speak to this, I'm going to use a strategy I've used on another occasion and try to group people. At this point, I would ask these four people to vacate those chairs and those microphones and call the following people forward: George Dadamo, the parliamentary assistant to the Minister of Transportation; Bent Hudson, the Ontario Traffic Conference; David Kaufman, director of traffic and planning for the municipality of Toronto; and Gordon Perks, the Better Transportation Coalition.

1020

Mr Tony Ruprecht (Parkdale): In terms of asking questions to the previous deputants, they're going to come again, obviously, right?

Mr Fletcher: Yes.

Mr Ruprecht: But in terms of the process after the new deputants have spoken, what's the process? Are there other ones after that?

The Chair: Basically, I have a long list of people here, as you probably have a list as well. We will get all of their presentations first. As questions come to you, please feel free to raise your hand. I have you down on the list of questioners. Then we will ask those people to come up to answer the queries as you raise them.

Mr Ruprecht: So they're all going first.

The Chair: We're going to have all of the people raise these concerns first so that we can get them on the table, and possibly some of your questions, as a result, will be answered and possibly it will reduce some repetition and concern.

Mr George Dadamo (Windsor-Sandwich): I'm pleased to be here this morning on behalf of Transportation Minister Gilles Pouliot as we begin committee discussions on this private member's bill presented by the honourable member for Fort York.

As you know, private member's Bill Pr43 would allow the city of Toronto to introduce the designation of 30-kilometre-per-hour speed limits together with some traffic calming measures. Let us first preface the ministry's position by reminding you that safety on our roads is a top priority for this government. We are committed to making Ontario roads the safest in North America, and from that commitment we expect tangible results and we of course expect to save lives.

Road safety is a complicated issue. We approach it comprehensively. Government initiatives, such as graduated licensing of new drivers, RIDE campaigns, seatbelt campaigns and construction and maintenance of our highways to the safest standards possible are designed to save lives, reduce injuries and also cut the annual \$9-billion cost of collisions.

We realize, as you do, that road safety is a principal concern of the city and is the catalyst for the introduction of this bill. To that end, we support the efforts of the municipalities in finding new ways to deal with traffic problems in residential areas by exploring traffic calming measures.

Some of those traffic calming examples—traffic circles, road narrowing, speed humps, change in colour and texture of the road surface, street closures and one-way streets—are intriguing, but they need further definition and investigation.

One reason these traffic calming measures are interesting is that by their very design they have the potential to force people to slow down and to adjust their driving habits and they are not laws which need enforcement. The city of Toronto's proposal includes speed-limit reductions to 30 kilometres per hour and traffic calming measures. Lowering the speed limit is not a traffic calming measure; it would require consistent enforcement

in order to work. We don't know whether traffic calming measures do work or how they work, but this would give us an opportunity to find out together. Traffic calming measures are relatively new in Ontario and neither the province nor municipalities has much experience in this area. These measures are still very much experimental.

Because of this experimental purpose, it is appropriate to include a sunset clause in the proposed amendment. A sunset clause is advantageous and appropriate when we are testing something new which requires a legislative amendment, and the clause indicates the amendment is only in force for a specified period.

In this case, a sunset clause will allow time for the traffic calming measures along with the 30-kilometre-per-hour speed limits to be studied and evaluated by the city in conjunction with the ministry. If at the end of the two-year period the city can show that 30-kilometre-per-hour speed limits are appropriate and effective for use together with traffic-calming measures, then appropriate legislative action can be taken at that time.

We suggest a sunset date of two years from proclamation. This will give the city the opportunity to establish the speed limit for a street, sign it and evaluate it. It will also give the city one more year to remove the sunset clause if it is shown that lower speed limits along with traffic calming measures do indeed work.

To decide if they are appropriate, and it's crucial that we know whether or not they will work before we proceed full speed ahead, there are two other considerations we would like the city to think about: consider defining traffic calming measures so drivers will know what to expect and consider using 30-kilometre limits together with traffic calming measures. The two shouldn't be used separately from one another. At the risk of repeating, we have to approach this very comprehensively.

Let me close by saying there's no doubt that speeding is a real problem and a very serious concern. We agree that safer residential streets are an objective which ought to be pursued on an experimental basis, and I think this bill offers one way of achieving that goal, because the issue of road safety, as I said earlier, is one of the government's chief considerations. Speeding is also an issue for all of us, one we grapple with every day in this province.

As we approach the issue seriously, we approach the solution seriously, and that means analysing proposals like traffic calming measures together with lower speed limits carefully. It also means having the ability to ensure that, if unsuccessful, the act will not require further legislation intended to put an end to the experiment.

The ministry supports the city's objectives and this bill. I'm confident that this bill will meet our concerns and that the city will benefit from the approach to road safety.

Let me close also by saying that we have many staff from MTO here this morning who will be able to answer any questions that anyone will have and we'd be delighted to do so.

Mr Bent Hudson: I'm here today representing the Ontario Traffic Conference and in the time available to

me, I wish to record on behalf of the membership and the board of directors the conference's strong opposition to the proposed legislation which would enable the city of Toronto to designate 30-kilometre speed zones on public roadways. The conference regards the proposed legislation as unwarranted as it would relate to current traffic engineering practices and criteria.

By way of background, the Ontario Traffic Conference, since its inception in 1950, has been an organization dedicated to the safe and efficient movement of persons and goods on the streets and highways of Ontario. The membership of this organization is unique in that it encompasses over 90% of the municipalities in Ontario having a population of 5,000 or more. Members include engineering personnel, police, elected officials and suppliers of traffic and parking control products and services.

Due to its broad range of expertise, the conference has been active for many years in advising and assisting the Ministry of Transportation in projects as diverse as the preparation of the Ontario Manual of Uniform Traffic Control Devices, handicapped parking policies, pedestrian crossover standards, school crossing protection and all-way stop warrants.

In recent years, the membership of the conference has been most concerned with what can generally be categorized as the unwarranted use of traffic control devices, often described as political warrants, which has in many municipalities resulted in a proliferation of all-way stop controls and 40-kilometre-per-hour speed zones, both of which are intended to deter speeders and limit through or shortcut traffic.

Unfortunately, however well-meaning, this arbitrary imposition of lowered speed limits has quite simply not proven effective in reducing prevailing travel speeds but has served to create lawbreakers out of a majority of the motoring public and create a great deal of disrespect for traffic laws in general and placed an unreasonable enforcement pressure upon limited police resources.

Traffic engineering professionals have consistently determined that the majority of motorists will operate their vehicles at a rate of speed which they judge reasonable and prudent given the prevailing road, vehicle and weather conditions, regardless of posted speed limits. Speed regulations, as with most laws, should to a great degree be self-regulating, with enforcement effort being directed only to the few irresponsible motorists who will unfortunately be in evidence on most streets and highways.

Our opinion is that the 30-kilometre speed limit, if it's permitted in the city of Toronto, will constitute an unreasonable and virtually unenforceable law and will certainly qualify as an unwarranted use of traffic control devices.

1030

It is acknowledged that the requested legislation is confined to the city of Toronto and is intended for application in local residential areas designated for traffic calming. We have, however, in perusing the provided background material, identified nothing of a technical

supportive nature to justify the city's 30-kilometre-per-hour proposal. Traffic calming techniques, if of an extensive physical and geometric nature, may very well effect reduced travel speeds. The impact of such initiatives upon speed, however, should be assessed prior to considering the incorporation of a companion maximum legal speed.

Our concern, and indeed our expectation, is that should this breakthrough legislation be approved for the city, then demands for similar treatment will surely follow within other municipalities in Ontario. Our position is that the current 40-kilometre-per-hour prescribed speed as the lowest permitted by the Highway Traffic Act for public highways in Ontario adequately serves the needs of municipalities if and when it is determined, through engineering studies, that a speed limit reduction from the statutory 50 kilometres per hour is warranted.

Thank you very much for the opportunity to address this committee.

Mr Leslie Kelman: My name is Les Kelman, appearing on behalf of Metropolitan Toronto on behalf of David Kaufman.

We initially had concerns about the bill as it was initially formulated, but since that time we have participated in a number of discussions with officials from the city of Toronto, and the amendments that have been introduced have addressed the vast majority of concerns that we had from a metropolitan perspective.

The one remaining issue that is of concern to the metropolitan corporation is more a matter of implementation rather than the bill itself. If I examine the European experience and the way in which traffic calming has been introduced, traffic calming is actually defined quite clearly, and there is a minimum set of requirements that one would need to introduce.

It may be advisable to introduce some of the detailed elements of what we would term "warrants" into the bill, so that the requirements for the city of Toronto to introduce certain physical features on to the roadway would need to be there, would need to be clearly defined, before the accompanying speed limits could be introduced at the same time.

As most people are aware, the transportation network in the Metro area is a combination of local roads and Metro roads, and while we encourage all of the local municipalities in terms of traffic calming measures—anything that they do to improve the safety of pedestrians, cyclists, drivers and passengers we will fully support—the outcome has to be a balanced transportation network.

As well as introducing these measures on the local roads and even perhaps reducing the speed limits, at the same time we have to ensure that the arterials—these are the roadways under the Metro jurisdiction—are as attractive as possible. It's a balanced system, it's a tradeoff, and in trying to ensure that traffic is not using the local neighbourhoods, we have to do the utmost to ensure that they stay on the arterials. This is the only way in which we can achieve a balanced transportation system to the benefit of everyone.

Therefore, what we would like to see is some of the requirements for traffic calming introduced so that there is some sort of consultation process, so that the impact of the neighbourhood's features is balanced against what we're trying to do on the arterials. That's really the only comment, the only concern, we have from a Metro perspective at this time.

The Chair: I appreciate all your remarks at this time. I would ask these folks to vacate the chairs. I'm going to call the following people. Is Gordon Perks in the audience? No. We have Doug Moffatt, Joan Doiron, Steve Ellis and Pat Curran, if you could come forward, please, if you're in the room. I'm going to start with you, sir, if you would please introduce yourself for the purposes of Hansard and make your presentation.

Mr Doug Moffatt: My name is Doug Moffatt. I'm executive director of the Canadian Courier Association. I'll be, hopefully, very brief. Initially this bill, as it was drafted, was unworkable in our estimation, and I have some concern that the amendments I think are the amendments are the amendments you folks think are the amendments.

I'm concerned that the bill seems to be attracting bits and pieces as it goes through, and certain folks are establishing that this amendment is part of it and other folks are establishing that other amendments are part of it. We need to see at some point a clean, updated copy of exactly what it is.

The gentleman who spoke for Metro said most of the things I was concerned with at this time. We are prepared to support the movement of the bill. We question whether 30 kilometres per hour or 18 miles an hour is a realistic number to use, but it's a test and we'll support it.

The definition of "traffic calming" is something that is missing and needs to be part of the final piece of work so that those municipalities or others who expect to see traffic calming and 30-kilometre speed limits implemented in various places will know exactly what they're buying into when the proposal is brought forward.

It seems to us that this is a part of possibly workable legislation. Our greatest fear, however, is that the city of Toronto has embarked in other areas on measures which, say, do away with cars and delivery vehicles and trucks, and that is not a workable position. Those people who propose that this is simply part of that kind of legislation are wrong.

We would ask that your committee make sure that this is treated as a measure to improve road safety in those designated areas only and that the definition be clearly set out. Under those circumstances, we would support the legislation.

Ms Pat Curran: I'm Pat Curran. I'm manager of public relations for CAA Toronto. We thank you for the opportunity to comment on the speed limit law.

The Canadian Automobile Association policy 5.3 on the regulation of speeds states, "All motor vehicles should be driven at speeds reasonable and prudent under prevailing conditions with the legal maximum and minimum limits."

Regulatory speed limits should be kept under constant

review, using the most effective modern techniques and formulae for determining and enforcing safe and realistic speeds, taking into consideration the effect of speed upon safety and energy conservation.

Our recommendation 5.3.1 on the regulation of speed states, "Provincial governments are encouraged to establish and enforce speed limits which have been determined to be positive measures to save lives, reduce the severity of injuries, decrease tension and conserve energy."

1040

We at CAA Toronto believe that reducing the speed limit to 30 kilometres per hour on city streets would be unreasonable and unenforceable. Motorists will only obey the speed limits that they perceive as being reasonable. An unrealistically low set speed limit may also give a false sense of security to other road users, including pedestrians.

Further, we feel that such a low speed limit does not allow for the efficient operation of the motor vehicle and could have the detrimental effect of increasing fuel consumption and exhaust pollution. CAA therefore recommends that the urban speed limit law remain as it is presently. We thank you for the opportunity to comment.

The Chair: Thank you, Ms Curran. I suspect the lady on your right is Ms Doiron. Perhaps you would introduce yourself if I've mispronounced your name and continue with your presentation.

Ms Joan Doiron: My name is Joan Doiron; the "i" is on the other side of the "r." It's an Acadian name, just for a little exercise in Canadian history.

The Chair: I understand the fun with names. My name is five letters and it presents some interesting problems as well.

Ms Doiron: Nobody can ever pronounce it.

The Chair: No problem.

Ms Doiron: I'm here on behalf of the Toronto Board of Education. I made some notes for myself, which I'll pass to your secretary afterwards, that I wrote actually with the previous writing of the bill. Now I'm much happier with what's here, of course, but I'll still read what I said originally.

The Toronto Board of Education has strongly supported the city's efforts to reduce speed limits and to traffic-calm our streets, particularly in our school communities. It is the desire of the board that children be encouraged to walk to school. Ideally, we would like the city, Metro and the province to work with school communities and boards to create a situation where most of our students walk or cycle to school.

This used to be the case. Surely it should be part of our collective policies to return our cities and communities to a condition where most community trips may be taken by walking, cycling and transit. Such a happy situation would help the province readily achieve its environmental objectives of reducing emissions and making our streets lively, interesting places.

As the previous speaker said, obviously, if you keep cars going at a slow speed, you do reduce emissions.

Largely as a result of speeding motor vehicles taking more and more city space, children have been given less and less freedom to walk in their communities and to their schools. Speeding vehicles take a terrible toll through road kill and through maiming for life many hundreds of thousands of children and adults. That's got to speak a lot louder than just the convenience of the automobiles.

Slower vehicles take less toll, of course. British Columbia has recognized this for many years. There's been a 30-kilometre zone as standard in their residential school communities.

At the Toronto board, we were shocked to receive a letter from the Minister of Transportation on April 11 where all the above truths were ignored, while a preoccupation with "uniformity" was suggested as an ultimate good. Streets, after all, are not only for motor vehicles. Best used, streets surely are the means by which children and adults communicate with one another through walking and cycling and where car use is minimized to the most necessary vehicles.

Traffic calming, with lower speed limits and lower traffic volumes, will help reinforce our city neighbourhoods. Thus, as a representative of the Toronto board, I would like to urge you to support this permissive legislation you've got before you.

I just want to point something else out to you. I'll leave you a copy of this. This is a document we've had at the board several times about traffic calming. If people are concerned about the definition of it, here's a wonderful book to get at it. It is something that the city and the board itself are working very much on, because we have far too many accidents with our children.

There is a little document which shows you how, with 30 kilometres an hour, a child is not hurt anywhere near as much as with a 60-kilometre zone, for example. It says here:

"Reducing speed has the following effects:

"(1) Slower traffic emits less noise and fumes." There's the point I was making earlier.

"(2) There are less accidents.

"(3) Accidents that do happen are less severe." You'll have an example of one of our parents speaking later who will talk about that.

"(4) The capacity of existing road space is increased." If you've got faster cars, they need more space; slower cars need less space.

That's what I'd mainly like to say.

Mr Steve Ellis: I'm Councillor Steve Ellis from the city of Toronto. As with most legislative bodies, it's very rare when you have unanimity on any initiative or any bill. I represent the dissenting voice, the minority voice of city council. When this came through council, it wasn't the situation. Certainly there was a large majority who supported it but there were a few of us who didn't feel it was well-thought-out and didn't feel it was adequate.

I am somewhat happier with the proposed amendments to the bill because it was my view that the blanket

request for allowing 30-kilometre zones throughout the city of Toronto was not practical, it wouldn't work and it would be contrary to public safety. We all know that we currently have speed limits. The speed limit is 50 kilometres an hour unless otherwise designated. We have a number of zones that are 40 kilometres and these are primarily around schools or in neighbourhoods where we are attempting to calm traffic. There is a 40-kilometre zone which is used quite widely in the city of Toronto, to pretty good effect. But this 30-kilometre zone, to allow this as a holus-bolus answer to the traffic speeding problems would not be the answer.

Quite interestingly enough, last evening I had a meeting in my constituency office with over 50 residents in a quiet neighbourhood region north of the Danforth in my area in east Toronto. Of the 50 people—we discussed this traffic calming at quite a lot of length, and speed limits—the consensus of almost everyone there, I think 49 out of 50, was that 30-kilometre zones will not work because there's not adequate enforcement, that they would be very happy if some of the police constables in the city of Toronto who are enforcing parking violations would be placed on radar and enforcing the current 40-kilometre zones throughout the city of Toronto, that the effect would be terrific and we would have much safer streets.

To bring in a 30-kilometre zone without adequate enforcement is completely fooling the troops. It's window dressing that will have no real effect on the safety of the streets of Toronto or any other municipality in Ontario where it's brought in.

My community is requesting stepped-up police enforcement of the current speed limits. We hope that through the Ontario Legislature and Metropolitan Toronto, which is the government that funds the police in our area, they will increase police spending and encourage the police to enforce the speed limits. Perhaps, if I can throw a novel idea out here, it may be that the Legislature might decide to exempt the police from Bob Rae days, which take a very serious toll on their manpower and womanpower in enforcing the laws that are there.

I am somewhat happy with the proposed amendments. I would request that if this committee does implement the 30-kilometre zones, it be very much in conjunction with traffic calming measures in areas, particularly around schools. There's consensus that we have a concern with safety around public schools and separate schools and high schools, that it is a real concern with children in the area, and we would certainly like to err on the side of a 30-kilometre zone if that will save some lives.

But to allow holus-bolus power to implement it throughout the whole city, it's ripe for abuse. There's no doubt there will be some overzealous councillors who will attempt to make their whole ward 30-kilometre zones, which will lead to confusion. Why implement laws for the Queen's highways that will not be adequately enforced?

I just wanted to raise those points.

The Chair: I'd like to thank this group of presenters for their information and I would at this point like to call

Mr George Sawa, William Wallace and Hamish Wilson, please.

1050

Mr George Sawa: My name is George Sawa. I would like to start by asking everybody in this room to basically look at the hard facts and not try to speak in the abstract. This is a picture of my son, who was hit by a car. Luckily he was not killed because the car was going slowly. Please note the indentation in his left cheek. I'll just pass it from here, please.

You realize that I support the bill. If I had my choice, I'd make it even slower than 30 kilometres for the pollution that the cars create and the noise that the cars create, and of course there are many senior citizens who can get killed by fast-moving cars, and young people. Many of us very soon will be senior citizens, and you should be quite concerned about the speed of the traffic.

I disagree very much with some previous speakers who said that you cannot enforce this 30 kilometres. Let me remind you that on St George Street by the University of Toronto two students have been killed in the last three years. We had the police car there enforcing the speed and the police car was catching a lot of speeders.

When they introduced bicycle lanes, the speed dropped immediately and there was no reason to spend money and bring a policeman to monitor the speed, so the speed can be enforced by creating bicycle lanes.

I endorse the bill.

Mr Hamish Wilson: I'm Hamish Wilson. I support legislative change that would allow for lower speed limits, ie, 30 kilometres an hour. Why? Speed kills. How much do we have invested in a life or a pet? I don't believe that we will add much, if anything, to the air pollution burden. More energy is used going from zero to 50 and beyond than is used from going from zero to 30 kilometres.

Faster speeds encourage resentment for stop signs and less heed being given to them. Speeding cars, in theory, require more expensive road space for stopping distance than slower cars. We would likely have smoother flowing traffic if we had closer to a steady state of flow rather than so much stop and then, zoom, go.

Now all levels of our governments, province, Metro and city, are or are talking about putting into place plans that support the more sustainable modes of getting about. Making the streets friendlier to pedestrians and cyclists does mean reducing the fear of being killed by a passing car.

What we're talking about is an efficiency improvement that would benefit everybody. I have here a poster from Holland that shows the road space as it's occupied by cars, then the people will get out of their cars, then they get on bikes and then they all get on the sidewalk. If we encourage a safer, more sustainable street so that these people feel more comfortable being on their feet, being in transit, being on their bikes, then we have more road space, and the cars that are on the road and the buses and the transit vehicles can get to where they're going with less hassle and less congestion, and that will improve our economy and the efficiency of people's time. So we're

really talking about something significant here in terms of making our streets friendlier.

I would also quote from an excellent book, *The Ecology of the Automobile*, page 120, "Another study of a midtown Manhattan area showed that only 22% of the people were in vehicles but they occupied 66% of the available space." That isn't always the case, it isn't always just 22%, but I think the roads are public spaces, and we have to make sure that the benefits are shared more publicly.

I heard that the traffic conference person, I believe, was very concerned that this 30-kilometre-an-hour zone would spread throughout the province. I wonder why. Do people live throughout the province? I think so. It's a very basic human concern that the roads be made safe for crossing the street for elderly people, for children and for pets.

The Chair: Thank you to these presenters as well. Those are the people I've called who I've had some pre-confirmation as far as their wish to speak this morning is concerned. I would ask at this point, if there are any additional interested parties who wish to come forward, if they would do so at this time.

I would then ask Mr Hayes to make his comments with regard to concerns related to either the Ministry of Municipal Affairs or other ministries that you are aware would have a concern with this bill.

Mr Hayes: It is obvious that the Ministry of Transportation did have some concerns. As far as the Ministry of Municipal Affairs is concerned, we're rather neutral on this because of the recommendations from MTO, and as long as these amendments are accepted, then we will not be objecting to it.

The other point I'm going to have to make is that one of the questions we've had is whether we are going to entertain others now, after we pass this one. I can't speak on behalf of MTO, but I would certainly suggest that we would say that if this is going to be a pilot project, then let it be so and not deal with others until we find out the results of this. I have my personal views, but anyhow I'll finish there.

The Chair: Mr Dadamo, any concerns at this point, beyond what you've already stated?

Mr Dadamo: I said to a media representative in the hallway a couple of minutes ago that we should view this on a pilot project basis. I think most things the government tends to do is to work on pilot projects, and whether that becomes a six-month deal, a year or two years, we need to see numbers come back to us one way or the other.

I made it instinctively clear that this is a project that works in British Columbia. The *Toronto Star* reported yesterday in its article that it's not new to other parts of the world. If the numbers come back to us and suggest that we are indeed saving lives, if it instinctively slows people down on residential streets, if kids are not being hurt, then I think it's a good thing.

The terminology I would like to use, and perhaps I need some clearance from people from MTO here this morning, is that we view it as a pilot project and wait for

those numbers to come back. As politicians, as grown-ups, and as people who are here trying to enact some laws for the province of Ontario, and indeed for other municipalities, we need to see those numbers come back and that will take some time.

The Chair: I would then ask Mr Mills with regard to his question, if he would pose it. Be sure to indicate who you wish to pose it to. We have had a number of people who have come before us.

Mr Gordon Mills (Durham East): I'd like to thank everyone who came here this morning to put their point of view across. I must say that I had a number of technical questions I was going to ask and they seem to have been very well answered. It just leaves me to say what I think about this. I think that's what we're here for as members of this committee.

First of all, I'd like to go back to some personal experience. I've seen this in the United Kingdom. It works. I do feel, and have felt, very comfortable walking about in such an area so that you don't have to keep constantly looking over your shoulder as you change directions.

I was impressed by the statistics that indicate—and I know it—that the slower you drive, the less likely the impact is going to seriously injure or kill someone, so that's a positive. I just jotted these things down as I listened to people.

Having been raised in a very close-knit residential area years and years ago, children must be able to feel safe to move about where they live. It's all very well to say, "Well, you've got parks and things like that," but children should feel comfortable to step outside of their door, on their street in a residential street, and play some of the games and do some of the things that they want to, free of the fear of traffic mowing them down.

Residents on residential streets demand that their streets be made as safe as possible and I think that's the focus of this government, that we are bound to make the roads all over Ontario safer. In my opinion, that includes the residential streets in Toronto. In my opinion, the residents who demand that their streets be made safe are absolutely right and we should do that.

1100

I heard a comment that this won't be enforceable because you haven't got enough police etc. I happen to come from the old school of thought and upbringing that if you put some law into position and you indicate that the law is in position, ie, a 30-kilometre speed limit, most law-abiding citizens adhere to the signage and behave properly without having to have a policeman peer over their shoulder to enforce it, so I don't agree with that. Most law-abiding people obey the law. If they didn't, we would have anarchy in Ontario because we haven't got enough policemen to watch everybody.

What really is going to convince me to support this is that we're going to evaluate it over a couple of years and then the opportunity is to come back to this committee and say, "It's a go," as we did with your street-vending legislation. It worked well and that is the key thing we have to think of here. We're giving you the opportu-

ity—at least, I'd like to give you the opportunity—and come back and re-evaluate it in two years' time.

With that, Madam Chair, thank you for the time to speak and I will be supporting this.

Mr Ruprecht: So what's your position?

Mr Mills: You know my position.

The Chair: Thank you. We have a bunch of comedians this morning.

Mr Ruprecht: Before I came in here this morning, I was dead set against this speed limit reduction for a number of reasons, and I'll ask some questions in a minute, but what I hear this morning, and if I'm not correct, someone later on can correct me, but the people who spoke somewhat against it—first, of course, we heard from the Metro rep who said that while he was against the original proposal, because of the amendments things are nice and calm and there are no problems.

Then we heard from Ms Curran from the CAA, and she said that the CAA is against it. I thought, "For what reason are they against it?" We found out that they are against it because there may be a problem with pollution and the good workings of a motor vehicle, and that will be one of my questions.

Then we hear from Councillor Ellis, whose opinion I respect as well, and he says he is still against it but his fears are, to a great degree, mitigated because of the amendments that are being proposed today.

Having heard from the people who are against this legislation, I come to the conclusion that the majority of the opinions would be that the amendments, to a great degree, have mitigated the major problems here.

Here are my questions to the city of Toronto, and I don't know who wants to answer this: How many zones or streets do you have on your pilot plan now? Is Balliol the only project or, as Councillor Ellis says, is there going to be an onslaught of city councillors saying, "I want one on Cowan and I want one on 50 other streets"?

Mr Wayne Jackson: Presently, the only project we are planning to build is the one you have the plans for: Balliol. I should tell you, though, that at any time in the city in the last five years we've always had in the order of five to 10 residents groups interested in doing something about traffic. Typically, these take one to two years to come to a plan. We look to put two or three other plans in place within this pilot project period. I'm talking streets, not areas. Balliol is about three quarters of a kilometre long. I'm talking about that sort of order of magnitude.

Mr Ruprecht: So you're saying you're looking. In other words, you haven't figured out what other streets you're going to do it to in the next two years.

Mr Wayne Jackson: Not exactly. We certainly have a feel because the residents have come to us and we're sort of, I would say, 50% or 60% along the road on some other streets, but we're not sure. Each one's different. We don't know what will work there.

Mr Ruprecht: Right. So we can be sure there won't be many, right?

Mr Wayne Jackson: No.

Mr Ruprecht: In terms of the proliferation of street signs, one of the objections of course has been that there will be too many street signs. That might be part of the problem. Have you found in your studies that too many street signs clutter up the neighbourhood and lead to people not obeying the law?

Mr Wayne Jackson: Too many street signs have, actually, both of those effects. First of all, they just don't look nice. You get so many signs and eventually people start ignoring them. The interesting thing with Balliol, for example, is that we will be taking out stop signs because we are going to do traffic calming at intersections. Then all of a sudden, yes, we'll have to put up speed-limit signs, but we'll also be removing stop signs. In terms of total number of street signs, there won't be any major change.

Mr Ruprecht: Why are the traffic calming measures not sufficient? Why do you have to have additional street signs?

Mr Wayne Jackson: As somebody mentioned, there is a group of people who will obey the regulations set out; there is always a group as well that, regardless of what the regulation is in terms of speeding, they'll go faster.

I could design a street where, if you went over 30 down the street, you would whack into a pole or you would hit a planter box, that sort of thing. The problem is that I have to leave some margin of error. I can't assume that everybody driving down a street is driving like today when the sun's out, when the pavement's dry and when they're familiar with the street. If my mother is—excuse me, my mother's a good driver, but she's not as good as my son—driving at night, because she's lost a bit of night vision, and she's unfamiliar with the street, I want to leave a little bit of room for manoeuvre in case she makes a mistake.

The other aspect of it is that we have emergency vehicles to consider. Not necessarily that they can drive very quickly down the street, but the physical design—if I want to get the speed down, I make the curves much sharper. That makes it so much more difficult for aerial trucks etc.

We've had the fire department out on Balliol. We've marked these measures out on the street. They've driven up and down. They've declared that they can go through there. By designing a street to ensure nobody goes above 30 physically, nobody's capable, I think is irresponsible on our part.

Mr Ruprecht: What about the main comment and objection of the CAA, saying that there is a possibility of greater pollution, and that there is a possibility that the motor vehicles don't operate at sufficiently high energy levels or whatever at 30 kilometres an hour?

Mr Wayne Jackson: The greatest contributor to pollution and the greatest contributor to gasoline wastage is the stop-and-start action of motor vehicles. On Balliol we have three intersections where we presently have all ways stop conditions. We will remove those for Balliol.

I think, and I stand to be corrected, probably the most efficient speed of operating a vehicle is in the

50-kilometres-per-hour range if you don't have to start and stop, if you can go continuously. The difference between 50 and 30 in terms of gasoline wastage is very small.

The major difference is stopping, or at least coming to a rolling stop. In fact, I did the little check on Balliol and by going 30 versus going 40, going 40 and stopping after three intersections you will use three times as much gasoline. So the traffic calming measures will reduce the amount of gasoline used and therefore will reduce the fumes and also the noise at intersections, which is a great deterrent to local residents.

Mr Ruprecht: Madam Chair, I've changed my mind. I've got one comment to Mr Hayes, because Mr Hayes makes a lot of sense when he says if we can—

Mr Fletcher: Hold it.

Mr Ruprecht: He does, occasionally.

Mr Hansen: How are you voting on this?

The Chair: Excuse me. Would the comedians sort of put it in neutral here and let Mr Ruprecht—

Mr Fletcher: Tony, can you say we all make common sense?

Mr Ruprecht: You might all make common sense after this vote.

Mr Hayes was saying that in terms of the process of this committee, we all know what happens here. We're getting people coming to this committee almost on a weekly basis from other municipalities because we have agreed to accept one bill or one law in one municipality; in others, we haven't. This is one of the major problems. Mr Hayes is pointing out that if we agree to accept this in the city of Toronto, there will be others who are going to come to us.

Mr Mills: Why not?

Mr Ruprecht: Why not? That could be a problem, obviously, because we haven't found out what the conclusion of the pilot project will be; that's why. That's why I would agree with Mr Hayes and ask the Chair that Mr Hayes's comment should be included as an amendment, if possible, to say that we will not accept any other motion—

Mr Hansen: Then you'll vote for it?

Mr Ruprecht: —from any other municipality unless and until this pilot project is over and we've seen the results of the study.

Interjections.

The Chair: Order, please. I don't believe we're in a position of doing that. Members are going to be in a position, when a bill comes forward, to ask some very pointed questions of whichever community is going to come and try out this particular proposal.

How many years has the city of Toronto worked to get this to the table? I don't think most communities, with councils obviously being as fractious as this group, are going to achieve that kind of consensus to bring about this kind of change overnight. I would suspect that in all likelihood we're not going to get that kind of full-tilt response from municipalities across the province in the next few months. I think it's going to take some time for

it to work through, and we're not going to be able to come down with a rule like this.

1110

Mr Hayes: I know what Mr Ruprecht is saying and I don't disagree with him, but I don't think we can just automatically say that we will not hear other presentations. My recommendation would be a strong recommendation to the committee that if others are coming forward similar to this, that we certainly consider that there is a pilot project here, and I would recommend that we would not pass similar ones until we see how effective this bill is. I would make that recommendation, but we cannot put it down that we will not listen to other people, that's all I'm saying—and also subject to the Ministry of Transportation, with the presentation it's made.

Mr Fletcher: Just a few things about the pilot project: How many streets are we looking at in the pilot project, and where are these streets? Just one street and that's it?

Mr Wayne Jackson: As I mentioned earlier, at this point we just have Balliol as a pilot project, but I think maybe two or three others.

Mr Fletcher: Okay, and for a two-year period this will be monitored. I know that water and electricity flow where the least resistance is. With one project over a two-year period, watching the flow, the traffic is going to move to another area where they can access wherever they wish to go. You will get a reduction in the amount of traffic on that road, but it doesn't mean there's a reduction in traffic elsewhere in the city. It's just moving to an area where there's the least amount of resistance as far as people who wish to get from point A to point B at a greater rate of speed are concerned.

Mr Wayne Jackson: That's very true. In fact, our old style of traffic control absolutely resulted in that. When I cut off access to street A, they had nowhere else to go but streets B and C. The big difference with traffic calming is they still have street A to use.

Part of our monitoring program will be not just looking at Balliol; we will have to look at the streets two, three, four, north and two, three, four south, as well as the arterial streets. If traffic does migrate to other streets, we have to at least define that and come back and report on that.

Mr Fletcher: Okay, yes, as long as the other streets are being monitored at the same time.

There are some arguments that, "I don't care what speed the vehicle's going; if you get hit by one, it's going to hurt," and the possibility of death is there, even if it's 40 kilometres, 30 kilometres, 15 kilometres. It's always going to be a possibility, the way that the vehicle hits a person.

I'm not so sure about the safety aspect. It's okay for pedestrians being able to move about, but I always think of kids and kids usually are running around and not paying attention. I shouldn't say "usually." That happens, running around and not paying attention between parked cars and what have you, running into the side of a car. So I'm a little leery. Is the bottom line just traffic control? Is it to slow the traffic down? Is there too much traffic within the city streets?

Mr Wayne Jackson: Maybe some people would say there's too much traffic, but from my perspective, I feel my purpose in life at the city is for the safe operation of the street, and I feel particularly concerned about the safety of children.

Studies have shown that children under the age of 12 really don't have a good sense of speed-distance relationships. It sounds like kind of an old age. You would think they would know by then, but they really don't. This always worries me because if I'm not out protecting them, who is?

The reduced speed, especially on residential streets, because that's what we're talking about here, is really intended to just—and "calm" is a good word—calm the whole environment down too. It doesn't mean that if a child runs out in front of a car and the motorist has no chance to react, that child is not going to get hurt. There are studies that show if a child is hit by a vehicle going in the five- to 10-kilometre-per-hour range, there is a good chance of survival. At 50, forget it; it's as simple as that, and in the 30 the chance of survival correspondingly goes up. That's really what we're after.

Mr Fletcher: I can support the bill with the amendments as far as the sunset clause is concerned, with the sunset clause. It would be interesting to see, at the end of two years, the results of the study, especially with relation to the other streets and where the traffic is going and what measures can be taken.

Mr Hansen: I always like to see some new projects coming from the city of Toronto—I've supported quite a few of them—and new ideas for doing things. I was reading a few articles in the Toronto Star. I went to the library just to take a look at the issue as it started. I believe there was a phone-in survey in Toronto that showed that 67% were against lowering the speed limit to 30 kilometres an hour.

Also in the Star, on June 7, on the bottom line of a ghost writer, there isn't the name of the person who wrote it: "Advice to the legislative committee: Don't waste time with two-year sunset clauses; just kill the silly idea outright." Then in another article, at the very bottom, it says, "The public is invited to air concerns at hearings today, at Queen's Park, before the standing committee on regulations and private bills."

I can see that the residents of Toronto have had an opportunity to come forward. I would say a lot of the phone calls that came in on that survey were people who maybe lived on the highway who would never change, but what about these citizens who live on some of these highly populated neighbourhood streets that need some control? I can see the city of Toronto wouldn't be going ahead to calm these streets and the cost involved in brickwork, cement work etc—I don't think the money would be wasted at all if it saves one or two children's lives in a period of time.

The other thing is that on controlling the speed, you can always post a sign at the very beginning that says "Monitored by Photo-Radar." I imagine that would slow them right down to 30 kilometres an hour.

You sort of answered on alternative routes. I think

that'll be looked into and upgraded to take traffic so it's not just going off that street on to another street and have concerns from another neighbourhood, because you'll have another neighbourhood after you. I see that you've already answered that question.

The other thing was that Mr Ellis, in an article that was in the *Toronto Star* also, dated June 14, I believe was talking about Dundas Street. That is a busy street. But the other thing too is that taking that as a typical street, and let's say we're going to calm that area, what about the speed of streetcars? Would the speed of the streetcars remain the same or would they be slowed down? I'm going to go through the whole thing so you can answer all at once, if you want to take notes there.

I have to agree with the stop signs. Stop signs are being used in a lot of municipalities to slow traffic, to satisfy residents. They slow traffic, but what happens if a child runs out and somebody winds up running a stop sign? The child expects people to stop for that stop sign, even though they see the car coming. I think stop signs are not the total answer, very costly to be putting up, and there is the amount of work that goes through municipal governments just to erect one stop sign.

The other thing is, if it's traffic lights, the cost of installing traffic lights and the maintenance is far higher than the lower speed limit. What I would like to do is—I hope there's no patent pending on all this literature you've given me—give it to some of my municipalities to take a look at and to contact the city of Toronto.

I will be supporting this one because I think the municipalities, even rural, that I support would like to have a downtown area which is livable, walkable, enjoyable and safe.

1120

Mr Wayne Jackson: I'll deal specifically first with the speed of streetcars. There are a number of issues here. First of all, streetcars are on arterial streets. We're talking about local residential streets. Second of all, streetcars are on metropolitan roads. I have no purview over that. We won't be going after them. Third of all, the city of Toronto's policy is to encourage alternative methods of travel to the automobile.

We've shown this on King Street, for example. On King Street, we have designated the streetcar lanes solely for streetcars and taxis during the peak hour, just to move streetcars. On Bay Street, we've designated the curb lane solely for buses in an effort to encourage transit use. So we just won't be going after streetcars in terms of speed reduction.

I'm sorry, there may have been other questions that I've forgotten.

Mr Hansen: No, that's it. Most have been answered.

Mrs MacKinnon: First of all, I notice that we have approximately five or six amendments. I wondered (a) Have those who have been speaking to us seen these amendments? (b) Do they agree with them? (c) If they have seen them and they have agreed with them, yes, I will be supporting the bill, providing of course the sunset clause is there.

Mr Perlin: The amendments were all faxed on Friday

of last week to the people. The people who were here, at least the organizations, did receive it on Friday, our indication is. Now whether the individuals per se—for example, the fax that went to Mr Moffatt, I don't know if he actually saw it, but it did go on Friday. So we have sent it. I don't believe the Canadian Automobile Association came, because it wasn't on our list at the time, but everyone else was sent it on Friday.

We have not heard from people whether they do or don't, but you did hear for example from the Canadian Courier Association indicating that with the amendments, which made it clear that this has to be in conjunction with traffic calming, that there is a two-year sunset etc, it was less concerned about it than when it was presented as a wide-open ability for the city to just reduce to 30. So I think they've seen it, except for the Canadian Automobile Association.

Mr Marchese: I just want to comment on the comments of Mr Ruprecht with respect to restricting this only to the city of Toronto. I don't think as a committee we should contemplate doing that, but rather suggest that if a city council from Windsor or Hamilton wishes to pursue this in the same way that Toronto is, and there is a majority of council that says, "This is what the residents want," for us to restrict it to Toronto alone would be a problem.

There's a sunset clause that's being applied here in my view as opposed to a pilot. Therefore, if another city council would like to pursue this, I would say that it should come forward and we should hear it in the same way that we're hearing the city of Toronto. The sunset clause presumably would apply to them two years from now, or a couple of months from now, when others begin to have an interest in this. I would hate to see us contemplate the idea of a restriction simply for the city of Toronto, because I think that would be a mistake.

Mr Robert Frankford (Scarborough East): I seem to have got the sense from some speakers, and I think it's also in the *Toronto Star* today, that reducing the speed limit reduces the capacity of roads for the number of cars that can go through. I think this is in fact not the case. Could you comment on that?

Mr Wayne Jackson: The capacity of any roadway is usually dictated by the intersections of the streets. You rarely have a midblock capacity problem; it's always at intersections. You can attest to that if you drive around. Where do you stop? You stop at intersections. You usually don't stop midblock. So reducing the speed limit is not going to affect our ability to carry the volume of traffic that needs to be carried on that road. There's no problem that way.

Mr Frankford: In fact you notice this more on major highways with a lot of traffic lights. That encourages the pulses of traffic and considerable slowing up when the capacity increases, which I can see on Kingston Road in my area every day.

Mr Wayne Jackson: Exactly. What you're talking about is the platoon of traffic. You get a green light and you get 20 vehicles, and then you get another pulse. In a traffic-calm street, you should just get a nice smooth flow.

Mr Frankford: So one would anticipate that drivers probably won't be avoiding it, but they will see it as a way of smoothly flowing through.

Mr Wayne Jackson: To be honest with you, I don't anticipate any change in the volume of traffic on Balliol. What I'm looking for is a real reduction in speed.

The Chair: Mr Hayes has a question, and then with the permission of members, I'd like to ask one quick one, but Mr Hayes first.

Mr Hayes: Mr Jackson, how long have you been dealing with this problem? How long has this been a problem?

Mr Wayne Jackson: Traffic control?

Mr Hayes: Yes.

Mr Wayne Jackson: In the city? Well, as I mentioned earlier, it's been 20-some-odd years.

Mr Hayes: I just wanted to make the point to the councillor, Mr Ellis, that you've been dealing with this problem and it has been a problem for 20 years. The social contract's only been in effect for two years.

Mr Wayne Jackson: Okay.

Mr Hayes: I just wanted to make that point.

The Chair: Now my question. Are members in agreement? Thank you.

You indicated that you're going to be removing a range of stop signs on Balliol, but obviously, just looking at the map, you still have a number of intersections to deal with. You're assuming that people will give way in the appropriate manner. How are you, at that intersection, going to give a sense to a particular vehicle that they have the right of way and may proceed without having some sort of stop sign in place?

Mr Wayne Jackson: The intersections on Balliol are all four-way stops, so what I intend to do is take the stop signs off the traffic calm street, Balliol, mainly because now they're going slower. So you still have two-way stops as streets come in. Who knows, five, 10 years down the road, whether we can get rid of those as well, but that's not for the pilot project.

The Chair: I appreciate that. I wasn't sure how you were going to deal with the total intersection. That answers my question.

At this point may I ask if members are ready to vote. Agreed.

Mr Hansen: How are you going to vote now?

Mr Ruprecht: I said I was against it.

Mr Hansen: Well, where are you now?

The Chair: Order, please. We've been very good so far. Let's not lose it in the last five minutes.

Mr Mills: I move that section 1 of the bill be struck out and the following substituted:

"Bylaws re traffic control

"(1) The council of the corporation of the city of Toronto may pass bylaws to designate streets or parts of streets which have traffic calming measures in effect for the purpose of this act.

"Bylaws re 30 km/hr rate of speed

"(2) Despite section 195 of the Highway Traffic Act and in addition to its powers under subsections 128(2) and (3) of that act, the council of the corporation of the city of Toronto may by bylaw designate any street or part of a street designated by bylaw under subsection (1) as having a 30 kilometre per hour speed limit."

The Chair: Members have heard the motion. All those in favour, please signify. I'm sorry, Mr Frankford, you're not subbed into this committee.

Clerk of the Committee (Ms Tonia Grannum): He is.

The Chair: Oh, he is. I'm sorry, I wasn't aware of that. My mistake. So that amendment carries.

Shall section 1, as amended, carry? Carried.

Mr Mills: I move that section 2 of the bill be struck out and the following substituted:

"Location of signs

"2. A bylaw passed under subsection 1 shall set out the location"—

Mrs MacKinnon: Excuse me, that just says "under section." It doesn't say "subsection."

The Chair: Mr Mills, would you please start over again for us.

1130

Mr Mills: I move that section 2 of the bill be struck out and the following substituted:

"Location of signs

"2. A bylaw passed under section 1 shall set out the location for the placement of the requisite signs on the designated street or part of a street."

The Chair: Members have heard the motion. All those in favour, please signify. The amendment is carried.

All those in favour of section 2, as amended? That's carried.

Mr Mills: I move that section 3 of the bill be struck out and the following substituted:

"Signs required

"3. Despite subsection 128(11) of the Highway Traffic Act, no bylaw passed under this act becomes effective until the requisite signs are placed on the designated street or part of a street."

The Chair: All members have heard the motion. All those in favour of the amendment? Agreed.

Shall section 3, as amended, carry? Agreed.

Mrs MacKinnon: I move that section 4 of the bill be struck out and the following substituted:

"Penalty

"4. A bylaw passed under section 1 may provide for a penalty for the contravention of that bylaw, which penalty shall not exceed the penalty as provided in subsection 128(14) of the Highway Traffic Act."

The Chair: All members have heard the motion. Please signify—

Interjections: Agreed.

The Chair: No opposed? Okay.

Shall section 4, as amended, carry? Carried.

Mrs MacKinnon: I move that the bill be amended by adding the following section:

“Enforcement

“4.1 A bylaw passed under this act may be enforced by a police officer, who may exercise the powers set out in subsection 216(1) of the Highway Traffic Act.”

The Chair: All members have heard the motion. Agreed.

Shall section 4.1 carry? Carried.

Mrs MacKinnon: As amended.

The Chair: No, it's new.

Mrs MacKinnon: I move that section 5 of the bill be amended by adding the following subsection:

“Repeal

“(2) This act is repealed on the second anniversary of the day it receives royal assent.”

The Chair: All members have heard the motion. Please signify your agreement. Agreed.

Shall section 5, as amended, carry? Carried.

Shall section 6 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Agreed.

Thank you to members and thank you to the city of Toronto and all witnesses.

Mr Hansen, you had a comment to make?

Mr Hansen: I hope all government whips will know that I sit as Chair of a committee at 3:30 in the afternoon on Wednesday, so I'll be absent from this committee if you're going to go on that late, so as Chair, could you see that I have a replacement?

Interjections.

The Chair: Just one moment. Ladies and gentlemen, could you please quickly and quietly vacate this room? We have some other business to take care of.

Mr Hansen, if you would just hang on to your thought for a moment, the noise level, as you know, escalates rather high.

I would like to draw everyone's attention, if I may just follow up on Mr Hansen's comments, that we have 12 bills before us next week. I would suggest that we start at 9:30. In order to accomplish the business of that day before we finish for the summer, I would ask, if members are in agreement, that we ask the House leaders for permission to sit in the afternoon, and if members may have a conflict, as Mr Hansen does, that appropriate substitutions take place.

Mrs MacKinnon: I won't have a problem.

The Chair: Agreed?

Mr Hansen: Agreed.

The Chair: Thank you. Please remember, we will be starting at 9:30. It may mean that you have to have some substitutions made, but we will endeavour to get through the 12 bills as quickly as possible.

We are adjourned.

The committee adjourned at 1136.

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- *Mills, Gordon (Durham East/-Est ND)
- *O'Neil, Hugh P. (Quinte L)
- Perruzza, Anthony (Downsview ND)
- *Ruprecht, Tony (Parkdale L)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Frankford, Robert (Scarborough East/-Est ND) for Mr Perruzza

Also taking part / Autres participants et participantes:

Dadamo, George, parliamentary assistant to Minister of Transportation

Hayes, Pat, parliamentary assistant to Minister of Municipal Affairs

Clerk / Greffière: Grannum, Tonia

Staff / Personnel: Klein, Susan, legislative counsel



T-25

T-25

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Third Session, 35th Parliament

**Assemblée législative
de l'Ontario**

Troisième session, 35^e législature

**Official Report
of Debates
(Hansard)**

Wednesday 22 June 1994

**Journal
des débats
(Hansard)**

Mercredi 22 juin 1994

**Standing committee on
regulations and private bills**

**Comité permanent des
règlements et des projets
de loi privés**



Chair: Christel Haeck
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Présidente : Christel Haeck
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
REGULATIONS AND PRIVATE BILLSCOMITÉ PERMANENT DES RÈGLEMENTS
ET DES PROJETS DE LOI PRIVÉS

Wednesday 22 June 1994

Mercredi 22 juin 1994

The committee met at 0943 in committee room 1.

HERITAGE BAPTIST COLLEGE AND HERITAGE
THEOLOGICAL SEMINARY ACT, 1994

Consideration of Bill Pr60, An Act to incorporate Heritage Baptist College and Heritage Theological Seminary.

The Chair (Ms Christel Haeck): We've changed our usual time, so that may have led to some confusion for some presenters. I ask Mr Winninger to bring forward his applicant on Bill Pr60, An Act to incorporate Heritage Baptist College and Heritage Theological Seminary.

Mr David Winninger (London South): I'm here with Mr David Brander, of the distinguished London law firm of Little and Wright, who represents the applicant, to speak to second reading of An Act to incorporate the Heritage Baptist College and Heritage Theological Seminary.

I expect that Mr Brander may have a few additional remarks and may be able to answer any questions that may arise, but I just thought I'd say by way of introduction, and you can see this in the preamble:

"Central Baptist Seminary and Bible College and London Baptist Bible College and London Baptist Seminary have been operating as one institution since January 1, 1993 and have applied for special legislation to continue under the name 'Heritage Baptist College and Heritage Theological Seminary' as an institution for religious education that" grants "degrees in the field of religious study. The applicants" indicate "that they have been operating seminaries for the education and training of students preparing for Christian work at home and abroad since they were incorporated."

We're basically looking at what is in the nature, I believe, of an amalgamation and name change here.

Mr David Brander: My name is David Brander. I'm from the law firm of Little and Wright in London, solicitors for both applicants.

There are two applicants, Central Baptist Seminary and Bible College and London Baptist Bible College. Both of these are long-standing bible colleges. Central Baptist has operated in Toronto and was incorporated by letters patent in 1949 and then by a private bill in 1984. It ceased its operation in Toronto at the time the operations were combined with London Baptist in 1993 and now operates from the London campus. London Baptist was incorporated in 1976 by letters patent and then by private bill in 1981 when it became degree-granting.

The nature of the bill that's before you is in a sense housekeeping in order to maintain the degree-granting

status of the colleges. To amalgamate their operations, it was necessary to obtain a new private bill and to rescind the existing bills.

The required advertising has been completed, of course, and no objections have been received by either the colleges themselves or by our office. The bill attempts to address the interests of past students and graduates in its transitional provisions by providing that their degrees and credits will be recognized.

Finally, I ask for a motion for remission of the printing costs on this bill, because both applicants are charitable organizations and the new corporation will be as well.

The Chair: Any amendments or motions will be presented by one of the members as we go through the proceedings. I understand from my own notes that at least to this point there have been no persons or groups in opposition, but I am required by our procedures to ask if there are any other interested parties who wish to come forward at this time. Seeing none, we're safe to say there are no other speakers from the audience at this time.

I have a couple of people who wish to ask questions, but first I'll turn to Mr Hayes if there are any comments from the Ministry of Municipal Affairs on this matter.

Mr Pat Hayes (Essex-Kent): The Ministry of Municipal Affairs does not object to this bill.

Mrs Ellen MacKinnon (Lambton): I suppose this is perhaps a very moot point, but I noticed when Mr Winninger read out the preamble, he said "one institution since January 1, 1993." In our bill, or my bill at any rate, it says, "July 1." I just wondered for the sake of Hansard if we should maybe make some correction there.

Mr Brander: The "January 1" was a typographical error in a previous draft of the bill and the correct date is July 1, 1993.

Mrs MacKinnon: I'm not trying to be picky, but for the sake of Hansard I thought it should maybe be right.

Mr Ron Hansen (Lincoln): The government will support this bill, and we can get on with the voting.

The Chair: Very good. I would then put the question. Are members ready to vote? Agreed.

Since there are no amendments, shall sections 1 through 19 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Mr Hansen: I move that the committee recommend

that the fees and the actual cost of printing at all stages and in the annual statutes be remitted on Bill Pr60.

The Chair: All those in favour? Any opposed? None. Carried unanimously.

0950

ELECTRICAL CONSTRUCTION ASSOCIATION
OF HAMILTON INC ACT, 1994

Consideration of Bill Pr126, An Act to revive Electrical Construction Association of Hamilton Inc Act.

The Chair: Our next order of business is to call Bill Pr126; Mr Paul Milne, solicitor. I suspect Mr Abel has another meeting, so I would ask Mr Hansen to introduce the applicant at this point.

Mr Hansen: I'd like to introduce Bill Pr126 to the committee here, if Mr Paul Milne, a solicitor, wouldn't mind giving some background on it for the committee.

Mr Paul Milne: I act for the Electrical Construction Association of Hamilton Inc, which was incorporated in September 1982. In 1986, the various construction associations and contracting associations in Hamilton moved to their new premises at Construction House. They all joined together in owning the new facility, which is actually quite a beautiful facility in York Street.

Through inadvertence, the necessary notice to the ministry of the change of address of the registered head office of the corporation was not filed. It is a non-share capital corporation incorporated under the Corporations Act. The notices to file the special notice under the Corporations Act were forwarded to the previous address.

Unfortunately, they went astray and somehow didn't reach our client at its new address. Through an odd circumstance, the ministry, as a matter of courtesy, also sent a notice to the president. The president also moved at the same time and, through inadvertence, that notice wasn't given to the ministry. Unfortunately, it wasn't discovered until the fall of 1993 and it was beyond the period to revive the corporation.

It is very important that this bill be passed because of the importance of preserving all the union contracts and also its interest in Construction House, which otherwise will escheat to the crown. We would appreciate it very much if this bill could be passed by this committee.

The Chair: Do any other interested parties wish to come forward? Seeing none, Mr Hayes, are you aware of any concerns about this bill?

Mr Hayes: No, the Ministry of Municipal Affairs does not have any objections to this bill.

The Chair: Any questions or comments by members?

Mrs MacKinnon: Yes, I find it a bit—I don't know what to call it—amusing that so much of your mail went astray, but maybe it shouldn't be amusing; maybe it's a symptom of our mail system.

Mr Milne: Madam, if I may say, I don't wish to blame the mails. It's most unfortunate this has happened and we really don't have an explanation of what happened to the notices. They were certainly forwarded.

Mrs MacKinnon: Oh, I'm not blaming you.

The Chair: At this point, seeing no other questioners, are members prepared to vote on this bill? Agreed.

Shall sections 1 through 3 carry? Agreed.

Shall the preamble carry? Agreed.

Shall the title carry? Agreed.

Shall the bill carry? Agreed.

Shall I report the bill to the House? Agreed.

NAMDHARI SANGAT CANADA
(SOCIETY) ONT. ACT, 1994

Consideration of Bill Pr110, An Act to revive Namdhari Sangat Canada (Society) Ont.

The Chair: If Mr Hansen would do double duty again and act on behalf of Mr Marchese, our next order of business will be in relation to Bill Pr110. Would the representatives please come forward.

Mr Hansen: In substituting for Rosario Marchese, the MPP, I'd like to introduce David Jebb, the solicitor.

Mr David Jebb: My name is David Jebb. I am a solicitor with the law firm of Levy and Jebb and I'm representing Namdhari Sangat Canada (Society) Ont.

This is a bill to revive the corporation. The corporation was incorporated in 1983. It is a religious organization and is a branch of the Sikh faith. The organization's head office changed subsequent to its incorporation and the directors failed to advise the companies branch. The special notice was sent out to be completed and returned and it was never received and, as a result, the corporation was dissolved.

It was only subsequently, in 1993, that the organization became aware it was even dissolved. Up until that time they had been filing whatever was necessary with the federal taxation people. This bill is before you in order to revive this charitable organization.

The Chair: I would ask at this point if there are any interested parties who wish to come forward to speak to this bill. Seeing none, I would ask Mr Hayes from the Ministry of Municipal Affairs to give us any additional information about this bill.

Mr Hayes: Actually, there's a letter here from the Ministry of Finance stating it has no objections, and the Ministry of Municipal Affairs has no objections either.

The Chair: At this point, I would ask if there are any questions on behalf of the members. None. It seems like it's pro forma.

At this point, I would ask if members are prepared to vote. Agreed.

Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Mrs MacKinnon: I move that the committee recommend that the fees and the actual cost of printing at all stages and in the annual statutes be remitted on Bill Pr110, An Act to revive Namdhari Sangat Canada (Society) Ont. Please forgive my pronunciation.

The Chair: Thank you, Mrs MacKinnon. I think we've both made the same mistakes and we apologize collectively.

All those in favour of the motion, as presented, please indicate. Any opposed? Seeing none, it's carried.

Thank you, Mr Jebb, and thank you to the other presenters who are here this morning.

I would ask for a quick recess while we ascertain if our next applicant is here. Mr Crozier is here. We are wondering if the Lions Club is here. Other than that, we'd have to put it aside for a while, so we'll just ascertain that.

The committee recessed from 1000 to 1004.

TOWNSHIP OF SIDNEY ACT, 1994

Consideration of Bill Pr123, An Act respecting the Township of Sidney

The Chair: I'd like to call the committee back to order, please. I would call, as our next order of business, Bill Pr123. I would ask Mr O'Neil to join his delegation at the available mikes and, when appropriate, to make his introductions and presentation.

Mr Hugh O'Neil (Quinte): It's my pleasure to sponsor Bill Pr123, An Act respecting the Township of Sidney. For the members of the committee, this private member's bill deals with a proposal by the township of Sidney to construct an electric power—not to the township of Sidney, but there will be constructed an electric power generating station within Sidney township, located on the Trent River. The project will be explained, and any other details.

I'd like to introduce Michael Bowman, who is the solicitor for the Trent Severn Power Corp, Mr Fred Brooks, who is a councillor with Sidney township, and Mr Jim Pine, who is the chief administrative officer for Sidney township. Mr John Campbell will take this chair in just one minute, and he is the president of the Trent Severn company.

Mr Michael Bowman: Thank you for hearing us this morning. Our purpose today is to come and ask this committee for support for private bill Pr123. We understand that there is a letter from the Minister of Municipal Affairs which does not recommend support, but I would ask you to support this bill none the less and I hope to be able to persuade you as to the merits of this legislation.

You've received our compendium and I would just like to give you a little bit of background information with respect to this project. Trent Severn Power Corp, which is a company that has the same principles as Gananoque Light and Power which has over 100 years in the operation of hydro plants and the development of hydro facilities in Ontario, has been licensed by the federal government to construct a hydro-electric power generation plant on part of lot 1, concession 4, in the township of Sidney.

This land is owned by Parks Canada. I would like to tell you up front that this land is currently exempt for municipal taxation under the Assessment Act as crown land. A licence has been issued to Trent Severn to construct this facility. This licence expires in December 1996. I'd like you to bear that in mind as well. The site is on the Danforth site of the Trent-Severn waterway and it's one of the few undeveloped sites in eastern Ontario where a hydro-electric power plant could actually be

developed. The plant would have 5,000 kilowatts.

This project has had a lengthy history. It was historically supported and encouraged in the early 1980s by the then Minister of Energy and the then chairman of Ontario Hydro, Mr Welch and Mr Macaulay. The project has received all federal, provincial and municipal approvals; it's been subject to a federal environmental assessment; it's received support from the province, including the Ministry of Natural Resources and the Ministry of Environment and Energy; a building permit has been issued by the township; and a contract has been entered into with Ontario Hydro that's been signed to supply energy to Ontario Hydro for 30 years.

This project contains a number of advantages, particularly for the local community. It represents a significant capital infusion of \$13.5 million. That's significant. You'll hear Mr Brooks talk about plant closings in this community and the fact that there's a real unemployment rate in the greater Quinte area of 20%, so this is a significant investment. It's a significant boost to the local economy. There's an 18-month construction period proposed that would employ approximately 50 local tradesmen. There would be spinoff benefits in terms of subcontracts as well as for services and supplies.

This project has environmental advantages. It's a water project, a renewable energy resource. I would ask the committee to consider the long-term need for this type of facility over the life of the plant, notwithstanding the current supply situation in Ontario, bearing in mind that this type of facility would have a life well in excess of 50 years. The project would also have environmental benefits in terms of net gains to a local sport fishery and regulating the control of the Trent River system.

Just shortly before Trent Severn was about to commence construction and tender contracts at the end of 1993 and the beginning of 1994, the principals of Trent Severn, Mr Campbell and Mrs Campbell, who is with us, learned what the municipal taxes would be on this project. The most recent information we've received from the Ministry of Revenue—the Ministry of Finance now—is that the taxes would be \$136,000 a year. This is because there's a new method of finance, of assessing these types of facilities. I won't get into the details of that, but I see Mr Caines is here and he could probably give you good background on that.

These projects are typically debt-financed, and I think members of the committee should appreciate that it takes many years to run them at a break-even point, to actually make them profitable and to get beyond the break-even point. As a result, there were extensive discussions which took place beginning last January and February with representatives of Sidney township, and I want to point out that full financial disclosure has been made by Trent Severn Power Corp to Sidney township, including the township's accountants and legal advisers.

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What I want to make very clear here is that if the municipal taxes remain fixed at \$136,000, this project, which is on the verge of being constructed, will not go ahead. The project just simply cannot go through on the basis of those proposed taxes. This is not a threat; it's not

leverage that we're trying to achieve here. It's just a very simple economic fact, and that has been shared with representatives of the township, including their financial advisers. The project makes no economic sense if the taxes are going to be \$136,000 a year.

Bear in mind as well that the project is facing other obstacles these days. Today, you'll read in the paper about rising interest rates for debt-financed projects. Contract prices are also going to be difficult to be held, so delay is hurting. But the tax situation is really a make-or-break aspect of this whole project.

As a result, negotiations and deputations were made to the municipality, to the local school boards and to the county to get support for a private bill, which is before you today. I would like to point out that this private bill is only for up to a period of 20 years. It would allow a tax reduction for a period of up to 20 years, not 25 years as stated in the minister's letter. The purpose is to get this project off the ground. After the up-to-20-year period, this project will pay its full share of taxes, and as I've indicated, this project will have a long life. A 50-year life of a project like this is probably a conservative estimate. Gananoque Light and Power is operating a number of facilities that are in excess of 60 or 70 years old.

Also, the taxes would not be frozen at a low level. There would be step-up provisions, and that's been negotiated with the municipality, so over the 20 years, taxes would go up.

We received a letter just this morning and we had discussions with the Ministry of Municipal Affairs, and we understand that the objection from the Ministry of Municipal Affairs is that this offends the bonusing provisions of the Municipal Act.

There's another objection, that they want the school boards and the county to provide approval on an annual basis. With respect to the second objection, which we see as really a more technical objection, we don't have a problem with the school boards having a say in this matter. In fact, they've been consulted, and if you'll look through the compendium, you'll see that there are resolutions from both school boards, as well as the county, indicating their support.

There is a problem with having them provide their support on an annual basis, because what we would be looking for and what Trent Severn needs is some certainty here, and its financiers, frankly, need to know that as well, that municipal taxes will not all of a sudden increase to levels that make this project unfeasible.

That second issue is a technical one. We think that could be worked out.

What I'd like to respond to more generally is this question of bonusing. It's not our position and we're not trying to suggest that the bonusing provisions of the Municipal Act are wrong or that the province is heading in the wrong direction in its consideration of the bonusing provisions or its recent passage of Bill 40, but what I would like to suggest to you is that the bonusing provisions of the Municipal Act do not apply in this particular case.

I would like to urge the committee to support this bill

for a number of reasons, notwithstanding the minister's objections, the first of which is that this is an important project to the local community. Again, I must emphasize that it's a \$13.5-million investment in a community that has lost jobs, that has a real unemployment rate of 20%. I don't think it would be appropriate to turn one's back to this type of investment in this economic time. There will be economic benefits in terms of construction and other jobs as well as environmental advantages.

The second point I'd like to make is that this bill has received full support. There's a consensus at the local level for this bill. There is no objection at the local level. Township council has passed a resolution in support, the two local school boards have been consulted and they are in support of this, and the county has taken a position that it is neutral. In other words, what everybody realizes at the local level is that they're going to get something where right now they're getting nothing, so there is no controversy at the local level, only consensus.

The third point I'd want to make, and again I can't emphasize this too much, is that if this bill is not passed, this project will die. That's a certainty. Again, there's been full financial disclosure, that's been made, but our financial consultants tell us, in their terms, that this project is, what they say, "skinny." There's no room: \$136,000 a year in taxes, given the debt load that the project will carry, will just simply kill the project. The principals will not build the project. This economic investment, this \$13.5-million investment will be lost.

I would urge this committee to weigh this concrete investment that's available to this community that needs this type of investment against policy considerations that in my submission will not apply to this particular case, and I'd like to address that right now. I'd like to specifically address the bonusing provisions, and we're not attacking the bonusing provisions of the Municipal Act; they make sense.

We've had several discussions with staff of the Ministry of Municipal Affairs, and the underlying problem of bonusing, the underlying policy, as I understand it, is to avoid a situation where municipalities compete with each other for investment, and we understand that. We understand that the province wants to avoid the situation that you get in Ohio or someplace like that, where General Motors comes to the province, comes to one municipality and says, "Hey, you give us a concession and we'll build our car plant here," and to this other municipality, "You give us a concession and we'll build a car plant here."

We understand that policy, that's a sound policy, but this is not a car plant; this is a hydro-electric power plant. What it requires is water. It also requires a river, and it requires a river where the elevations change.

As my clients have pointed out to me, there is only one Trent River. This project cannot be moved from one municipality to another. This is not a scenario where there would be competition among municipalities for this type of project. It either gets built in the township of Sidney at the dam 4 site or it doesn't get built. It can't go to another municipality. So in terms of the underlying policy of the bonusing provisions, they do not apply to this situation.

Another point that I would like to make with respect to the bonusing provisions and why they don't apply is that I want to draw to your attention again that this site is owned by Parks Canada. It is crown land. It is already exempt from taxation. Because there's a tenant on it at this point, the municipality, I believe the total taxes that are being achieved from this site right now—Mr Pine will advise you if I'm wrong—are \$130 a year, of which \$40 a year goes to the township.

The land itself, and we can show you photographs and I could circulate photographs of the property, is beside the river. It's just a long, skinny piece of land along Highway 33. It has no other development potential. The site is owned by Parks Canada and, as I've indicated, it's already exempt from taxes. If this project is not built, the status quo will remain. The municipality, the school boards and the county will get no other additional tax revenue from this project.

What the bill would propose is that during the startup period, the municipality would get taxes, instead of the \$136,000 that the Ministry of Finance's formula would apply, that in the early years the project would receive—instead of the \$130 in taxes that they're getting now, they would get about \$35,000 to \$40,000 in taxes a year. There would be provision for the taxes to increase over time, over the up-to-20-year period, and as well we've indicated to the municipality that in our contract, in Trent Severn's contract with Ontario Hydro, there will be an opportunity, I think after 10 years, for rates to increase. When the rates increase with Ontario Hydro, there will be an opening for the taxes that the municipality will achieve to increase. So the municipality will benefit as the project gets off the ground, and again, after 20 years or after the end of the period, full taxes will be paid, and this project will have a very long life beyond that.

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When you talk about bonusing, I'd like to put it to you that the only bonus that is in effect in this project is the bonus that the municipality is going to achieve and that the school boards and the county are going to achieve, because what you'll be getting is something where you otherwise get nothing.

The third point I'd like to make in response to the bonusing suggestion made by the minister is that this bill is really within the spirit of Bill 40, which I'm sure members of the committee are familiar with. Bill 40 encourages municipalities to provide financial or other assistance to worthy capital projects. Surely this is that type of project that comes within the scope and intention of Bill 40, and it's worthy of local support and certainly should be worthy of the province's support.

Finally, I'm going to draw to your attention, and again I suspect that members of this committee are aware, that last year there was a private member's bill, I think it was Bill Pr38, and it is attached as appendix 1 in tab 2 of the compendium. It was An Act respecting the Township of Atikokan. You all have it.

The bill that we're proposing is identical to the bill that this committee and this Legislature passed last year with respect to the township of Atikokan. The precedent was derived from there, and it was the same problem.

Atikokan had a hydro plant, and because of this new method of valuing these projects they couldn't carry it out financially.

This bill was used as a precedent and I understand that the minister says in his letter that the Atikokan bill was a mistake. I would put it to members of the committee that the bill was not a mistake. It recognizes that there was a problem and it addressed the problem, and it addressed the problem in a constructive way.

I appreciate and our client appreciates that the Ministry of Finance is now going to be looking at the way these facilities are assessed, and that's a constructive step. But in the meantime, a project like this cannot survive without the introduction of a private bill. That's the long and short of it.

I'm almost done and I appreciate the time that you've given me, but it is an important project. I understand there's also a concern that there will be a domino effect. We understand that the township of Seymour has a similar bill here this afternoon and that there are other municipalities waiting in the wings. Again, that is reflective that there is an underlying problem that this Legislature should address. Until the ministry is in a position to address this problem by way of a constructive policy, the private bill method is the only way to go.

What makes this project different? This project doesn't exist right now. If the Legislature wants to support the local community and to ensure that this \$13.5-million investment gets made, then this bill has to go through. The difference is that this project has not been built yet and cannot be built without this support.

In summary, and again I thank you for listening to us, I would ask members of the committee that notwithstanding the minister's views on this matter, I think you should stand back and think about and weigh the advantages of a positive, concrete, \$13.5-million investment to be weighed against policy considerations that the ministry is raising that do not apply, when you think about it, to this particular project. It may apply to General Motors when it's looking at different car plants, but it does not apply to this project.

I would therefore ask that the committee support this bill and help us get it through the Legislature so that this project can be built and the benefits accrue to the community as the community wishes. I'd be pleased to answer any questions. I understand that Mr Pine or Mr Brooks will be speaking as well.

The Chair: We have some problems with time. We have a couple of major, major bills before us today, yours being one of them, and the bill that will follow you. We have a real problem because the committee rises at 12. I know, for myself, I have an obligation immediately at 12.

I would ask that any of the other speakers, in light of the rather full remarks Mr Bowman has made, limit their remarks to one or two minutes because I also have to ask, according to our procedures, if there are any other interested parties, and I know there is going to be a lot of discussion on this bill.

Mr Brooks, are you making any comments at this time?

Mr Fred Brooks: Yes, Madam Chair, I'd like to. First of all, I'm not a lawyer, I'm not a bureaucrat, but I'm an elected politician just like yourselves. I have the distinct honour of representing a municipality or a combination of municipalities in the greater Quinte area.

What amazes me during these times is that, especially during election year, there's a lot of jockeying among municipalities and governments, but this municipality, this greater Quinte area, has come together on a particular issue in that you have the county of Hastings, you have the school boards and you have municipalities agreeing that this project should go ahead.

This area has been devastated just like other areas in the province of Ontario over the last couple of years during the recessionary times. This is a \$13.5-million project. That's a great deal of dollars, specifically in an area that has about 50,000 people.

We have unemployment, as Mr Bowman suggested, of over 20%; real unemployment of over 20%. We have lost, in the area, 2,746 manufacturing jobs over a period of a couple of years. That's very significant when you have a population base of 50,000. We have lost \$54 million in wages. That again is very significant.

This is a \$13.5-million project that will make some money for the area. It'll bring in some jobs. In fact, the constituency has said, "Let's go with this." They have not objected in any respect whatsoever.

It's environmentally sound. Mr Bowman suggested all the other great points, but I bring to you, basically from a politician's point of view, that these are the constituencies, these are the people who have said over and over, "We need to bring employment, we need to bring jobs, we need to bring money into the area." There aren't a lot of jobs, there aren't a lot of people coming into the area, but now we have a viable project of \$13.5 million coming in here.

We need your support. We need you to go deep and say to yourselves—just like it would be within your own constituency, people are saying: "Please bring it to your community. Please bring it to our community." We need your assistance greatly in this.

Those are basically my points. I have a brief here that was brought together by the bureaucrats, but I think I'm just going to appeal to you from a political point of view. You have people asking you as a politician to represent your area. This is my area that I'm representing and I'm bringing it to you. We need your support on this.

The Chair: Do either of the other two gentlemen wish to make a presentation at this time? None. Are there any other interested parties in the audience today who wish to come forward and make a presentation? Seeing none, Mr Hayes, from the Ministry of Municipal Affairs.

Mr Hayes: The Minister of Municipal Affairs, as Mr Bowman has indicated, has made it known and quite clear that the ministry does not support this bill. The ministry appreciates the development would represent a boost to the local economy, there's probably no question there, but to allow this exemption would undermine the province's prohibition against municipalities granting bonuses or financial assistance to businesses.

Such a precedent could subject the committee and the government to many more similar developments. We understand that Ontario Hydro is negotiating with respect to a number of other similar developments, as well as other industrial or commercial developments.

The ministry recognizes that the township of Atikokan bill, 1993, also dealt with a tax reduction. However, at the time the ministry was given to understand that Atikokan was to be the only one.

The Ministry of Finance has agreed to review the current methodology of assessing and taxing electrical power generating stations. The Ministry of Municipal Affairs recommends that this issue be addressed in the context of the review.

As a result of these concerns, the Ministry of Municipal Affairs cannot support this bill. As a matter of fact, just for the record, when Mr Bowman mentioned Bill 40, these projects were excluded actually from Bill 40. So that's where the ministry stands on this issue.

If there are any questions, we have staff from the Ministry of Finance, if any of the members want to direct questions to them or if they want to make a presentation.

1030

The Chair: Perhaps you'd like to come forward at this time and introduce yourself for the purposes of Hansard.

Mr John Dennis: My name is John Dennis and I'm from the Ministry of Finance, taxation policy branch. We have a couple of basic concerns with respect to this bill. We also share the concerns with respect to the municipal bonusing issue that Municipal Affairs had raised, but we're concerned largely from the perspective that this would provide an untoward advantage to this particular company when other power producers and power dams would be paying the full amount of tax payable. We don't think that's fair. We don't think they should be given a competitive advantage in that respect.

We're also concerned with the implications that in certain other municipalities where dams already exist, they're now going to want to come forward for similar relief when they're currently paying the same amount of tax payable, and in many of these jurisdictions the power facility that is currently paying the tax constitutes a really significant part of their tax base. We don't think it's fair to the school boards in the municipality to be put in that position.

That's all we have to say.

The Chair: I have some members who wish to ask questions at this time and the first one on my list is Mr O'Neil.

Mr O'Neil: First of all, I'd like to thank the people from the power company and from the township for appearing here today. I'll try to keep my comments very short.

Just as I believe there was with Bill 38 for Atikokan a need at that time when this committee looked at that and passed it, I also feel there is a great need in this particular case. I think both Mr Brooks and Mr Bowman have touched on the number of job losses that we have had and what a spur to the economy this \$13.5-million

construction job would be. Although it may not touch on Bill 40, one of the intents in Bill 40 is creating jobs within the province and maintaining jobs, and certainly when we look at the construction jobs and the year man-hours that would be created through a construction project such as this, plus ongoing jobs that there would be within the power plant, it would be of great importance to the Quinte area.

I know the government members here today can carry this vote, but I also know that I am appealing to people who are dealing with different issues within their own ridings, issues where jobs are so important, and I guess I would just sort of ask them to really think about this and consider the construction project, the number of jobs that would be created, the approvals that have been received within the area, the contract that has been arrived at with Ontario Hydro to buy that power.

It has a lot of things going and sometimes I think that ministries and ministry staff have to look at the circumstances that exist at the present time. When you talk about bonusing, we bonus every day of the week. There's Chrysler or Toyota or some of these other companies that are coming into Canada. We're giving money to some of these larger companies when something like this is really needed within our area.

I know some of the other members want to talk on this. I just ask for the consideration of every member of the committee when we come to vote on this.

Mr Leo Jordan (Lanark-Renfrew): Thank you, gentlemen, for your interesting proposal this morning. I would like to speak in favour of this project because, as has been pointed out, it isn't a case that you can move this site from one municipality to another. You have to go over the falls and the horsepower is—by nature. That is the reason the people have assessed this fall in the river and established the horsepower to 5,000 kilowatts that could be developed there.

I'm very much opposed to the government attempting to hold up this project because the Municipal Act hasn't been amended or the new formula hasn't been finalized for coming out with a proper tax assessment.

The one question I have is, do you pay a tax on the water being used there?

Mr Bowman: On the water?

Mr Jordan: Is there a separate assessment for the water flow?

Mr Bowman: The assessment would be on the land.

Mr Jordan: I understand there's another assessment for water flow.

Mr Bowman: Not for the use of it, no, but the formula is based—Mr Caines is here; he can tell you how the formula is based—on the amount of installed capacity.

Mr Jordan: I understand Ontario Hydro is paying so much per cubic foot.

Mr Bowman: That's an important point, sir, because Ontario Hydro, under the Power Corporation Act, pays probably one tenth, if that, of the taxes that these types of facilities have to pay. That's one important point.

The other important point that has to be made is that this is a change. Gananoque Light and Power has a number of other facilities that it operates, albeit they're older facilities, but the taxes that it pays on these other facilities in eastern Ontario are in the \$2,000, \$3,000, \$4,000 or \$5,000 range per year. Granted, there's depreciation on these facilities, but the difference between that type of tax level that existing facilities are paying, because they're older and they're depreciated, and that new facilities would have to pay because of this new formula makes it very substantial. The distinction between what these types of properties pay and what Ontario Hydro pays is very significant.

In terms of precedent, I'm not sure that should really be a concern. It's trying to address a specific problem that hopefully the ministry will address in a policy manner in the long term, and we're very supportive of the ministry looking at that and we appreciate that the ministry is looking at that.

Mr Ron Eddy (Brant-Haldimand): I find it very difficult to contain myself on this issue, but I will strive to, I assure you, Madam Chair.

Once the province of Ontario had the cheapest hydro-electric costs in the world. It became an industrial and commercial giant because of that. Where are we today? At every meeting I attend, industrials say one of our biggest problems is the very high cost of hydro-electric power. We're doing ourselves in, and I can't understand why we're such fools when it comes to our economy.

I really think we have to work together and do better. If there's one thing we need, it's cheap sources of hydro-electric power, clean of course, and water power. There's enough water power in this province to produce all the hydro power we will ever need. However, we're not working at it, and I criticize everybody for that, not just the present government. We need this investment.

I agree with Mr Bowman's presentation except on one point, where he says this will be of benefit to the area. This will be of benefit to the entire province of Ontario, indeed Canada, in my view, and we've got to look at it. It also puts it more on an equal footing with Ontario Hydro, and I'm awfully pleased that particular point came out, that Hydro pays about one tenth of the cost of what it would if it were paying full taxation; that has been mentioned, and I know it's a grant-in-lieu-of-tax system. So what if it's cheaper? Isn't that good for us all?

Anyway, on the matter of bonusing, and I know that's a concern, I would hope that the ministry, in saying this destroys bonusing and therefore can't go forward, could look at something else. I believe this is an assessment reduction. There are other systems, taxation reductions by municipalities certainly to many charitable organizations. I know this isn't the same class.

But what I really want to concentrate on, as my colleague Mr O'Neil has stressed, is the amount of bonusing that goes on. Provincial governments, and several governments in Ontario, of course, have happily bonused almost anybody who came along. Chrysler was mentioned. It wasn't a bonus; it was a forgiveness of millions of dollars of loans. They decided that for their reasons.

The CAMI plant, infrastructure: "Sure, we'll build a new interchange on 401. It doesn't matter what it costs." Roads: "Here's the money to do it." You mentioned the Toyota plant, but the other one, the Honda plant: We want it and we do the things that are necessary to get it, and we have to, because if we don't do it, we won't have those things and they'll be in the USA where everything else is going. My industries in my riding are at a disadvantage with the USA. They're being moved and I'm going to lose them, so we've got to look at changing some things.

Bonusing is a section in the Municipal Act. What about the London annexation? We go around the Municipal Boundary Negotiations Act. What about the case of basement apartments? We amend the Planning Act because the province wants it. What about housing on Toronto Islands? We exempt it from the complete planning process without any compunction, just because that's what we want. That's fine.

We want cheaper hydro power in Ontario. Great. I thank you for coming forward. You have my complete support, and I beg the ministry to look at this, the government to look at this and see how it can accommodate it, because we need you.

1040

Mr Derek Fletcher (Guelph): I wish I were in opposition; I could go on the same as Mr Eddy, especially when we talk about power. Nuclear power was a big cost item and we know where that started. The cost of Darlington skyrocketed right out of the provincial—

Mr Eddy: It doesn't matter.

Mr Fletcher: Yes, it does. That's why we used to have cheap rates, until we started overspending in areas like that.

One of the things as far as the bonusing is concerned is that what I can see happening is different parts of the province starting to bid with each other: "We will give you this much on an assessment," or, "We will give you this much." The city of Guelph could start bidding. We see it in the United States. I happened to be in North Dakota a couple of years ago, and one of the biggest problems they had in that state was the bonusing, where different parts of the state were competing with each other. In a lot of instances, there were parts of the state that were disadvantaged because of the ability of some areas to offer better tax incentives or tax-free areas.

I understand that it was done once, that it was a once-in-a-lifetime thing, and now we see what's happening as far as the "once" is concerned. Now it's started to open the doors. As you said, more and more companies are coming and asking for the tax-free assessment or the assessment to be reduced. If we don't put a lid on it, I can see it getting out of control. I think that's why it was put into the Municipal Act and I think it was a good reason to put it in the Municipal Act.

As far as the province bonusing is concerned, that's for the benefit of the province. When you forgive Chrysler, that's the provincial government forgiving something for the province. It happens all over the province, I agree, but that's for the benefit of the province, not the assess-

ments being lowered for the benefit of one area.

Again, I sympathize with Mr O'Neil and—

Mr O'Neil: It was also to create jobs in Windsor.

Mr Fletcher: That's what I was just getting to, Mr O'Neil. I sympathize with Mr O'Neil because I agree that there are instances where jobs are important, and I agree that this is one of those instances, but I don't believe this is the way you go about creating jobs, by lowering the assessments. It would just open the floodgates. This isn't something that's new with this as far as the Municipal Act is concerned. This has been on the books for a long time. I think it was the previous governments that had the foresight to know what would happen if this was not on the books.

On that count, I tend to agree with the ministry and I'll be voting against this.

Mr Jordan: I think we're missing the main point here. It's not what we've done with other industries because other industries per se do not compare with the construction of a power dam. This project has to take place, as I pointed out earlier, at the site where the horsepower is available. For that reason, surely, with all the environmental issues having been looked into and passed and that money spent—and those aren't small dollars, usually, to do all the environmental studies and the impact studies and so on. Then to be able to negotiate with Hydro and get sale of the power into the system—that's already been done; the market is there for the power to go into the system—and here we are saying we want this property assessed the same as any other industry, when it's just not relative.

The fact that the minister has stated, Mr Parliamentary Assistant, that he appreciates the problem and that it is being looked into, surely we're not going to hold up something that's ready to go because we haven't finalized this new formula. I have several independent power plants in my riding on the rivers in eastern Ontario and they're also concerned about the way they're being used relative to the assessment and the tax base.

This is a real opportunity for the government to say: "Here we've got an industry. It's ready to go. We're going to support it. We're not going to have its hands tied because some formula has not been revised to suit the very specific and unique cases of development."

My question would be, to the ministry: What stage is the revising of the formula at, as I understand it?

The Chair: Mr Dennis, or the other member from the Ministry of Finance, if you would introduce yourself for the purposes of Hansard.

Mr Bob Caines: My name is Bob Caines. We're having committees right now. We're meeting with the Independent Power Producers' Society of Ontario and the Waterpower Association of Ontario to discuss the valuation. The formula was developed in 1991, the current formula used to attain a market value. The previous way we valued them was not market value and that market value was upheld in the courts. But we are reviewing. I will be meeting with IPPSO and the Waterpower Association within the next couple of weeks.

Mr Jordan: That's the point I was trying to make,

that there is an attempt by the ministry to bring some reality to this type of assessment. Taking that into account, then, do you think it's right to hold up something that's ready to go, when we can let it develop? Maybe we could do it under the condition that when the formula is finalized, at that time it would apply to this project, the same as any other ones in the province. But in the meantime, let's go ahead with this private bill to get the job off the ground.

Mr Eddy: I just want to follow up on that particular point from the speakers. In dealing with this formula, do you give any consideration to what's done with Ontario Hydro? That's a grant-in-lieu-of-taxes system, I think, isn't it?

Mr Caines: It is grant-in-lieu, but under the Power Corporation Act their generating facilities are assessed at \$8.11 a square foot.

Mr Eddy: Are you looking at using the same formula for the others?

Mr Caines: I can't respond to that at this time.

Mr Eddy: That would be my suggestion, to put them on an equal footing, considering that Ontario Hydro of course has the big stick in that only those projects can go ahead for generating hydro that Ontario Hydro agrees with. Isn't that the way it is? Ontario Hydro has the right to refuse or approve other systems.

Mr Dennis: They have the right to refuse to buy power from independent producers—

Mr Eddy: Yes, right.

Mr Dennis: —if that's what you're getting at.

Mr Eddy: But it would seem to me that if the system is fair and equitable for the citizens of the province of Ontario, to Ontario Hydro, then like facilities producing the same product with the same generating source should be treated the same, to say the very least, recognizing that hydro-electric power is absolutely essential for our society if we're going to survive industrially.

1050

The Chair: Mr Brooks, you had a comment to make supplementary to this?

Mr Brooks: I'd just like to reinforce here, and leave the political aspect of the parties alone here, that we're talking about an area that needs to have some employment. We need to have an injection of capital coming into the area.

There's no competition here. You only have one river. You can't entice Toyota or any other manufacturer into the area. It's only a river, and that's all we're doing. There's no competition here.

We need to have the jobs. Just think about it in your own constituency. Would you be thinking positively if it was in your own area and you had to support this? That's the issue at hand here. Deal with the politics later, changing the bills, but look at what's going on here and now in this province. We talk about having a provincial government. We are part of the province. We have 50,000 people there who are vying for jobs, vying for some money in here. We cannot entice Toyota, we cannot entice big companies in the area. We have limited

resources. But we do have a river, and the river can make some money.

It's the province of Ontario. This river goes through the province of Ontario. It's a Canadian river. We need to have that. We need to have your support. You have to look, not very close-minded, but across the area, and feel yourself and say to yourself: "If this was my area, would I in fact support it? In good faith, can I not support this project?"

Mr O'Neil: I just have to ask for the consideration of all members. It's a good project construction-wise, job-wise, continuing jobs. I think in the letter that was handed to us this morning, the minister understands and the ministry staff understand that there is a problem with the present type of assessment on it when he says, "I agree with the Fair Tax Commission's concern that the province should review the existing methodology used to assess special-purpose properties." I would ask for the consideration of all members in passing this private member's bill today. It's very important to my area and the people who are in it.

The Chair: Just a moment. I have both Mr Fletcher and Mr Hayes. Mr Hayes first and then Mr Fletcher.

Mr Hayes: On the issue of we're talking about revising a formula to deal with the taxation part, I just want to point out to all the members here that I don't think these people would be very pleased if in fact—we don't know what the outcome of that revision would be. If it ended up being higher, then what position would you be in? You're saying, "Go ahead with this because you're going to make a revision anyhow." Well, I don't know what the final outcome would be once that formula is revised. Who knows?

Mr Jordan: It'll be in their favour. That's what they say.

Mr Hayes: It could be higher than what they're paying now. We don't know that, right? How viable would the operation be then? That's just one thing I wanted to throw out to the members.

Mr Jordan: I think it would be lower, considering the market value assessment.

The Chair: Thank you, Mr Jordan. You weren't on the list right at this moment. Mr Fletcher.

Mr Fletcher: I was just wondering if the parliamentary assistant could help me, or someone from the ministry. When is this revision supposed to take place, how long are we waiting—

The Chair: Just a moment. I just want to make sure Mr Hayes hears your question.

Mr Fletcher: I'll wait for Mr Hayes to finish his conversation.

Mr Hayes: I'm sorry.

Mr Fletcher: I was just wondering, when is this revision going to take place? How long do we have? Is it in the works?

Mr Hayes: I think it was already indicated earlier that they are dealing with it now, but the time frame? I don't know if we have a time frame on it.

Mr Dennis: There is no time frame to speak of. And

by the way, it's a review, not a revision. We're not necessarily committed to changing it. We're interested in talking to the groups that have their concerns and we're going to look at it, but we can't tell you what's going to happen down the road, because we haven't made those decisions yet. It may stay exactly the same as it is now.

The Chair: I would ask at this point if members are in favour of my putting a question forward to some of the technical staff.

Mr Hansen: I'll sit in the chair and you can come down here and ask it.

The Acting Chair (Mr Ron Hansen): Ms Haeck, you have a question.

Ms Christel Haeck (St Catharines-Brock): As I've been listening to this, I did have a question that came to my mind and so far no one else has raised it, so I feel it's incumbent upon me to put it forward. You list in your appendices letters of support from the school boards, and having just recently gone through some heated discussion with my own boards, I know that the issue of assessment is always uppermost in everyone's mind.

However, knowing the Quinte area reasonably well—I have friends who live in Cherry Valley, so I've managed to get down Wooler Road to the Scoharie on many occasions—I know what you're talking about, the economic situation and what have you. Realizing that assessment base is a major concern for everyone, what you're basically putting forward is a substantial shift in the taxation for this particular project which conceivably would go then to the local taxpayer. If the local taxpayer is not in a position, as a result of that assessment base, to pick up that tab, it's going to be the rest of the province that pays the tab. At least, that's how I see it.

I would ask if, from a technical point of view, any of the Ministry of Finance people are in a position—I know education financing may not be your particular bailiwick and it's always a tricky discussion, on education financing. Is there someone there who could comment on the possible shift and obligation of the province to pick up any financial obligations for this project?

Mr Dennis: I missed that whole question. Can you paraphrase it? I'm sorry. I was being disturbed over here.

Ms Haeck: I can. I know how these things go. I am concerned that the province would ultimately be on the hook for picking up any shortfalls in the school taxes.

Mr Dennis: Not in my understanding.

Mr Ron Skinner: If I could answer that question. My name is Ron Skinner. I'm from the Ministry of Municipal Affairs. School board grants that the province pays are inversely related to the assessment. In so far as the assessment would be less than otherwise, the school board grants are higher and, yes, the implication is then it would cost the province more in grants if the assessment was reduced.

Mr Eddy: Just following that point, and I realize what the member is saying, I still come back to the point that there's no assessment whatsoever on the property now. Secondly, there will be assessment and there will be taxation if this goes ahead, according to an agreed formula, so whatever comes forward is more than what

there is now. In other words, it's a plus for the school board, a plus for the local municipality and a plus for the county and whoever else gets taxed—

Mr O'Neil: And the province.

Mr Eddy: And the province, of course, if this goes ahead, I would think, too.

Ms Haeck: Having Parks Canada in my own riding—and obviously it's a different situation in that sense. We have Fort George and a number of, shall we say, tourist attractors there. Parks Canada frequently has a range of environmental concerns, which is one side of this equation. I don't see a letter here from Parks Canada indicating its concern with regard to this particular project. Is there any?

Mr Bowman: Parks Canada in fact gets a benefit out of this project. Parks Canada is in effect the landlord and there are a number of benefits that Parks Canada—I didn't mention those—also gets as a result of this project. (1) They get a tenant who's going to pay some rent to them, so they get revenue. (2) They're going to get an automatic gate on the site. That's a \$250,000 investment. There's going to be some additional lighting as well, so Parks Canada does get benefits from this as well. They're the landlord; they're the only one.

Ms Haeck: You actually haven't answered my question. I realize this is a concern that happens in Niagara-on-the-Lake, which is part of my riding, environmental concerns. Has there been any kind of an environmental assessment around this?

Mr Bowman: Yes, I said that at the beginning. There has been a full federal environmental assessment.

Ms Haeck: Okay, I'm sorry, I missed that in the discussion.

Mr Bowman: This is all done. We're really at—

The Acting Chair: One at a time.

Mr Bowman: I want to make that important. There was a federal environmental assessment that took place. We're at the final stages of this project. All the approvals have been issued, including a building permit from the township. Everything is there. The only thing that held this thing up was that at the last minute the client, Trent Severn, discovered what the taxes would be.

1100

Mr Brooks: We talk about assessment. This will generate \$4 million for construction wages, which means the province will reap in 35% of that \$4 million in income tax; the province will reap in \$1,400,000. That's from personal. We aren't even talking about the company taxes here as well. So there are gains all around. The province gains, the municipality gains, everyone gains in this scenario; \$4 million in materials, concrete, steel, lumber, another injection into the area of \$4 million. They're buying locally. So we talk about that. It's a very, very lucrative, very, very viable project. All are going to come out ahead on this.

Mr Jim Pine: If I might make a brief comment relative to the issue of bonusing, our council, the school boards and the county both raised that particular issue as we discussed it. We were all agreed that because of the

very unique nature, and members have talked about it, of this kind of project, we were not setting a precedent for other types of business.

We cannot move the falls anywhere but where they are. We cannot build a dam anywhere but where it exists now. No one's in competition. We wouldn't be here before the standing committee if it hadn't been for a change in policy at the Ministry of Finance. Their change in the assessment procedures quadrupled the taxes that are required on these kinds of projects. Had they left it alone, we would not be here. So we are here because we have a problem with the change in policy.

Mr Hansen: I don't know whether the rest of the committee would be in agreement that we defer this until this afternoon and come back again. I'd like to—

Mr Fletcher: Get some more information.

Mr Hansen: —get some more information from the ministry. I have an answer here from the ministry I maybe don't fully agree upon, but possibly I could vote the wrong way on an important issue. I can see that in eastern Ontario it is a very important issue. It is economic development in that particular area. I don't want to be hasty and say, "No, I'm going to turn it down," and you walk back to your people and say, "They didn't even listen."

Would the rest of the committee be in favour of our having a chance as a committee to get together with some other staff and talk about this a little bit more, and if it's possible, you can come back, say, at 3:30? We don't normally do this. This is out of the ordinary, so this is new. I don't think we've ever done this before.

Mr Fletcher: It's a long wait for these people.

Mrs MacKinnon: Ron will take them to lunch, right, Ron?

Mr Hansen: Hugh will take them for lunch.

Mr Bowman: I appreciate that suggestion, Mr Hansen. If things can be worked out somehow, that's appreciated, if the ministry can come to a reasonable conclusion on this.

The Chair: Actually, it would work. There are I think two similar issues at about the same time.

Mr Bowman: I understand that, although in that case there's a project that's already constructed. This is an investment we're looking at. This project is distinguishable because of that investment.

The only point I want to make again is that I just want to impress upon this committee and upon the Legislature that timing is important because of the rising interest rates which you've read about today. The project is so tight, you can't afford to go over, say, two construction seasons over the winter. We have no guarantees that we can hold contractors' prices that exist right now, so we do need a resolution of it.

Mr Hansen: We're looking at four and a half hours' delay.

Mr Brooks: We'll relax.

Mr Bowman: Thank you.

Mr Hansen: Can I put a motion on the floor that we defer this?

The Chair: I thought you already had.

Mr Hansen: I didn't say a motion, I don't think, but a motion to defer it till this afternoon, in that we are able, as members of this committee, to get more information from the ministry on different elements of this bill.

The Chair: A motion for deferral until 3:30 this afternoon has been put forward. All members who are in favour, please signify.

Mr Jordan: Excuse me, Madam Chair, could that be 3 o'clock instead of 3:30?

The Chair: That's a friendly amendment; 3 o'clock as opposed to 3:30?

Mr Jordan: I have another meeting at 3:30.

Mr Bowman: I'd just like to understand the procedure. You would like us to come back here at 3 o'clock?

The Chair: I should point out to all members that it is a fair comment that I believe Mr Hansen made, that if we're out of the House at 3, realizing that routine proceedings frequently take us beyond 3, sometimes 3:10, sometimes 3:15—shall we say after routine proceedings? That would give us—the friendly amendment is a motion to defer until after routine proceedings in the House. All those in favour of that motion, please signify. Done.

I want to thank the applicants for their understanding. Obviously, we have an important issue before us, so we'll be able to deal with it then shortly after 3 this afternoon.

We'll give the applicants and everyone a chance to stretch their legs for one moment. Our next order of business will be relating to Bill Pr125, but we will give people a chance to clear the room and ask their questions.

The committee recessed from 1106 to 1115.

LIONS CLUB OF KINGSVILLE ACT, 1994

Consideration of Bill Pr125, An Act to revive The Lions Club of Kingsville.

The Chair: I'd like to call the meeting back to order. Our first order of business after the recess is to deal with Bill Pr125. Mr Crozier, welcome. I'd like you to begin and introduce your applicants and make a brief statement.

Mr Bruce Crozier (Essex South): I'm here to present Bill Pr125, An Act to revive the Lions Club of Kingsville. I have with me Tyler Puddy, who is a law clerk who has worked on this file. As well, I have with me an active member and past president of the Lions Club, Karl Melinz, who is also a solicitor.

As it says in the preamble, this is one of those cases where a very active and viable club in the community has done a lot towards community work and raising funds and has been an asset to the community, but apparently it has slipped by—they failed, I think, back in 1958 to file their annual returns. The gentlemen with me can bring you up to date as to what they have done since that time to reach this point. I'll turn it over to Mr Puddy.

Mr Tyler Puddy: As you've read in the material before you, the Lions Club of Kingsville has made an application for private legislation to revive its letters patent. The corporation was dissolved on August 18, 1958, pursuant to the Corporations Amendment Act of 1957, for default in filing its annual returns. However,

since that time, the applicant represents that activities have been carried on in the name of the corporation despite the dissolution. The corporation has operated without profit since its organization, and all funds raised have been spent on community betterment projects.

The Lions Club of Kingsville owns approximately four acres of property within the town of Kingsville upon which is situated a community centre serving club-sponsored groups and fund-raising functions.

The purpose of this bill is to revive the corporation of the Lions Club of Kingsville and would have the effect of reinstating title to the community centre and surrounding lands to it.

Mr Melinz and I would be pleased to answer any questions you have at this time.

The Chair: Mr Melinz, did you want to make any comments at this time?

Mr Karl Melinz: Only to indicate that Lions International contacted the various Lions Clubs to get their associations' paperwork in order, and the fault was discovered as part of that process. The organization was unaware and continued to operate since 1958 as if it had status and is operating a community centre on a piece of property with a value in excess of \$500,000.

The Chair: At this point, I would ask if there are any other interested parties who wish to come forward to speak on this bill. Seeing none, I would now turn to Mr Hayes, the parliamentary assistant to Municipal Affairs, to make any ministerial comments.

Mr Hayes: In our package there's a letter from the Ministry of Revenue not objecting to this bill, and due to the very strong presentation that Mr Crozier made this morning, we don't have any objections to it.

Mr Hansen: The government will support this bill, and I can tell you that the Lions Clubs in my area, I support 100%. They are a partner with the government, with the business community and with the municipality also, so they've become real partners here in Ontario. I would hate to see that this bill wasn't passed, and I know we're going to support the bill.

I think when we get into volunteer organizations, the presidents change or the secretary changes and it gets lost over a period of time, and I hope that we can discover a better way of renewing, sending out notices to maybe the municipality, to say, "Where is that Lions Club? How come we didn't get a renewal on it after so many years?" without having to come back here to Queen's Park to get special legislation. So, as I say, the government will be supporting this bill.

Mr Tony Ruprecht (Parkdale): I want to thank the parliamentary assistant for making the comment about the MPP, Mr Crozier, being here and supporting his bill, because we are going to support this as well. However, I'd like to add to Mr Hansen's comment, which I thought made sense as well, what is this committee going to do to have people appear from sometimes far away, fighting traffic as I understand was the case this morning—

Interjection.

Mr Ruprecht: They were in traffic or not?

Mr Crozier: They were on the train.

Mr Ruprecht: Oh, on the train.

Interjection: They were fighting Via Rail.

Mr Ruprecht: I was looking in the hallway and saw Mr Crozier walking back and forth, and I had automatically assumed, which of course is wrong, that they were stuck in traffic on the 401.

Nevertheless, I want to get back to my major point, and that was Mr Hansen's comment. The recommendation here would be that somehow, at the end of the session, whoever should be authorized to do this should look into a method whereby we can streamline or make it easier for associations of this type, voluntary associations, to be reinstated, and I make that, I guess, with the help and cooperation of the government side.

The Chair: As you know, we have had something of a discussion on this in the past with regard to making sure that the applicant is here to be able to answer questions and concerns of members. Most of these revivals do tend to be fairly straightforward. We have, however, encountered several that have been a little more, shall we say, problematic, and required some lengthy discussion, so I appreciate your comments. I know that the applicants made their best effort to get here and obviously are very amenable to answering all our questions.

Mr Hansen: We're ready to vote.

The Chair: You're ready to vote? Are all members then ready to vote?

Mr Hansen: Don't repeat yourself, Madam Chair.

The Chair: I just have to find my cheat sheet here. Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Mr Hansen: Madam Chair, do we have a motion on the floor?

The Chair: Not that I'm aware of. If you wish to make one—

Mr Crozier: Madam Chair, if I might, with the comments you've made, I have just recently submitted to the public trustee information for the Faith United Mennonite Church in Leamington, the same set of circumstances, it would appear, and the public trustee has informed us that if we want to wait just a short time, they expect that there will be some change in the legislation that will allow the public trustee in some of these instances to make that decision. I haven't had time to look at that any further, but for your information, I just mention that this was told to us by the public trustee.

Mr Hansen: Madam Chair, my motion that I was going to give isn't in order, so I withdraw it, which I didn't say.

The Chair: Thank you. I know you started it, but you didn't finish.

Mr Ruprecht: Was this associated with the cost?

Mr Hansen: Yes.

The Chair: Thank you, Mr Crozier, for your information and the good intentions of all members on another matter. I hope that the applicants make sure that Mr Crozier takes them out to lunch and shows them at least some part of this historic building. I thank you very much for your time.

Mr Melinz: I'd like to make one more comment. It wasn't a chore coming up here. We've got two briefcases full of files that we've been working on, and we've been excited about coming to Toronto to the Parliament Building to make this presentation for the last month or so that we've been actively getting it in place. We thank you very much for hearing us, but it was no chore. We enjoyed it very much.

The Chair: Thank you. They do have some very interesting tours, so I hope you avail yourselves of that opportunity.

CITY OF SCARBOROUGH ACT (SMOKING BY-LAW), 1994

Consideration of Bill Pr101, An Act respecting the City of Scarborough.

The Chair: At this point, after our spiel for tourism in Toronto, I'll ask you to vacate those seats and ask our next presenter or sponsor to come forward, and that's Dr Frankford, the MPP for Scarborough East, and his applicant, relating to Bill Pr101, An Act respecting the City of Scarborough.

I may also advise members that we're coming up to the half-hour, so we might end up having to move the rest of—no?—I have to tell you, then, someone else may have to be in the Chair because I have another meeting. Mr Frankford, perhaps you'd like to start.

Mr Robert Frankford (Scarborough East): On May 17, Scarborough city council directed staff to obtain enabling legislation to protect city workers and inhabitants from secondhand smoke, and this is the bill that I'm bringing forward.

I have with me this morning Sandra Pritchard, who's the chair of the board of health, Dr Colin D'Cunha, associate medical officer of health, Mary Ellen Eberlin, director of healthy lifestyles of the health department, Sharon Delurey, tobacco-use prevention coordinator and Steven O'Melia from the city solicitor's office. I'd like to mention that Mayor Trimmer was hoping to come here but the police funeral was a priority for her.

Mr Steven O'Melia: My name is Steven O'Melia and I'm with the city of Scarborough legal department. I will just briefly outline—I know we're running short of time—the history of this application and how we have come to be before you today, and then Sharon Delurey of our health department who's a public health nurse and the city's tobacco-use prevention coordinator will briefly summarize the merits of why Scarborough is seeking this legislation.

The application that is before you is for the purpose of enabling the city of Scarborough to pass a bylaw to prohibit smoking within all enclosed public places and workplaces within the city. It goes further than existing smoking legislation.

It has been a long time in the making. It was actually

May 1993 that the resolution was passed, and the interim time has been preparing, going through all the provincial procedures required to get here today. In the interim period, while we were coming before you, there have been amendments made in March of this year to Bill 119, which in many ways parallel the powers that the city is seeking today. There are some differences, however, in the legislation, and the city has felt obligated to continue pursuing this application because of the uncertain status of Bill 119. I understand that status has become somewhat more certain recently, although still, as of this morning, the bill has not been passed.

I'll just briefly set out the three major exceptions between what we are asking for and Bill 119.

The powers that will be granted to municipalities under Bill 119 are that the city of Scarborough definition of "enclosed public place" specifically include transit shelters. There are a lot of bus shelters in Scarborough, and they can be either within the road allowance or on public property or private property. Bill 119, the way I read it, would exclude any part of a roadway, which would also exclude transit shelters that are within a public road allowance.

1130

Secondly, the Scarborough act requires employers to give personal notice to employees of the passage of this bylaw so that employees are aware that these rules exist; that is, it's not contained in the amendments to Bill 119.

Finally, the Scarborough bylaw provides for stiffer potential maximum sentences for repeat and corporate offenders or people who breach the bylaw.

Basically, that is why we are here today. As I say, in many ways the recent amendments to Bill 119 are very similar to what we are seeking, and if we had that in our pocket, we would likely be able to forgo this application but for these additional items that are involved that the city feels are worth pursuing.

I will pass it over to our health department, and we'll be available for any questions after she's finished.

Ms Sharon Delurey: My name is Sharon Delurey. I'm the tobacco use prevention coordinator for the city of Scarborough health department. Tobacco use prevention is a priority for the city of Scarborough. Scarborough city council and board of health have a role to support and encourage regulatory efforts to control tobacco use and exposure to secondhand smoke, also known as environmental tobacco smoke, and I'll use the short form, ETS. Scarborough is taking a leading role in protecting its citizens from the detrimental effects of ETS; as evidence, we're here today to seek enabling legislation.

I've circulated a brief that you have in front of you right now and I just want to make a couple of comments. There's a cosmetic change on the front page that you might notice. It just makes the wording more correct. Also, I know you have a copy already of the proposed draft bylaw so I haven't included it in the appendix.

On page 2, I want to refer to some of the detrimental effects of ETS. There are many detrimental effects of ETS and I haven't listed them all here, and research continues on this, but I want to highlight the third point.

There are 43 cancer-causing substances known in cigarette tobacco smoke. They have been classified by the US Environmental Protection Agency as a class A carcinogen, and this class has been reserved for the most dangerous cancer-causing substances. Arsenic and asbestos also are in this class. There is no safe level known for these chemicals, and to date, there is no legislation that protects all citizens from these chemicals.

I want to comment on page 4, near the bottom of the page. Last week we honoured five local businesses in Scarborough when they applied for and received their environmental tobacco-free award. This is an ongoing program that we're offering at the health department. Owners of these businesses say they've had no losses or changes in revenues as a result of their tobacco-free status.

I also want to draw attention to research of smoke-free restaurants in the California area that have been smoke-free since 1987, some of them. They've had small but significant increases in restaurant sales even though they were next to municipalities with no smoking restrictions. These results are very positive and I feel that speaks to the majority of the population, approximately 75% who are non-smokers.

Despite education efforts, the public remains largely unaware of the effects of ETS. The only effective means to protect people from ETS is to prohibit smoking. We ask for this enabling legislation so we can thereby protect Scarborough citizens from ETS.

The Chair: Is there anyone of this group who wishes to make any comments? I have some other people who wish to speak, so if I could ask you to vacate those chairs, I would ask the following people to come forward: Mr David Harris, Mr Paul Oliver, Mr Tom Friedland and Ms Vicki Beardemphl. The applicant was very good about keeping the comments brief, so I would ask you likewise to state your case as briefly as possible.

Mr David Harris: Members of the committee, my name is David Harris and I'm a representative of the Canadian Restaurant and Foodservices Association. Our membership represents a number of small businesses throughout the country, and these are typically small independent restaurants.

Scarborough is no different and is dominated by small restaurants. The city supports 850 restaurants which produce employment of about 10,000 people. The CFRA has a number of concerned members within the city of Scarborough, from coffee shops to restaurants which have table service. If a ban on smoking was legislated, these establishments would be at a competitive disadvantage. For this reason, the association is against the proposal.

A local trade paper in Ontario, the Ontario Restaurant News, reported in its May 1994 edition that restaurants in Los Angeles have asked the city council to restudy a bylaw banning all cigarette smoking in the jurisdiction. A recent poll by 300 restaurants showed that 55% had lost income since the ban went into effect on August 2, 1993. The negative backlash from consumers has come in the form of fewer customers, fewer reservations and more complaints. City hall down there is investigating larger smoke-free sections as one alternative to a complete ban.

Approximately 29% of Canadians smoke. A poll by Market Facts of Canada found that 65% of smokers feel that smoking sections in restaurants are essential, and this means that a significant portion of the population is likely to reduce their patronage in restaurants which do not have smoking sections, as evidenced by the situation in L.A. A smoking ban would create a competitive disadvantage for Scarborough residents, as smoking patrons gravitate to different municipalities. This would distort competition in the marketplace and limit the restaurateurs' freedom to offer a choice of dining experiences.

Restaurant patrons will choose, through their purchasing power, which type of restaurants they will frequent. The industry's profit margins are razor thin, typically 3% to 5%, and few restaurant operators can afford to ignore their customers' wishes. Customers' preferences should drive the market, not government regulation.

Are Scarborough restaurateurs worried about a smoking ban? Their concerns were documented in a study by our association. The survey occurred last summer and the sample size was 8% of all establishments within the city. It provides compelling evidence of the economic impact expected by this legislation: 64% of those polled said the existing smoking bylaw was effective, a majority said a smoking ban would reduce their sales by up to 50%, the overwhelming majority said it would reduce employees by up to 50%, and 86% said they would reconsider expansion in the city if the smoking ban was passed.

In summary, restaurateurs believe that they will be punished by a city-wide ban on smoking. It will cost them valuable sales and layoffs in their establishments. The legislation would create a patchwork quilt of regulations throughout the province, with some jurisdictions banning smoking while others allowed it, with no consistency in the application of smoking regulations. It would create an absurd situation with restaurants allowing smoking on one side of the street where it would be banned on the other side of the street by a municipal bylaw.

Restaurants in Scarborough need a level playing field with their competition in other jurisdictions. A ban on smoking would instantly eliminate a huge customer base for restaurants located in the city. For this reason, I would ask you to oppose the act that would allow a smoking ban.

The answer could be more generous smoke-free areas, better ventilation or more public information about smoking. But inconsistent and arbitrary bans hurt small business and attempts to legislate social behaviour are doomed to failure.

1140

Mr Paul Oliver: My name is Paul Oliver and I'm president of the Ontario Restaurant Association. I'm pleased to appear before you today to discuss Bill Pr101.

The Ontario Restaurant Association, like the Canadian Restaurant and Foodservices Association, is very concerned about the content and intention of Bill Pr101. The purpose of Bill Pr101 would allow the corporation of the city of Scarborough to ban smoking in all public places, including restaurants.

The ORA believes that the powers being requested by the city of Scarborough are already being considered later this afternoon in Bill 119 and that the government's views on the regulation of smoking in public places are clearly defined in Bill 119.

I want to point out that the draft bylaw from Scarborough is only a draft bylaw. It has yet to be reviewed by full city council in its current form, has not been debated by the city of Scarborough council, and has not had public input or consultations.

The ORA believes that allowing municipalities to ban smoking in public places will create a patchwork of legislation which will diminish the effectiveness of the message and also will create an administrative burden on operators and an unlevel playing field. Therefore, the ORA strongly recommends and requests that any consideration regarding Bill Pr101 be deferred until the Legislature makes its decision on Bill 119, which we anticipate later today.

In addition to the fact that Bill Pr101 is in effect an overlapping on Bill 119, the ORA believes that any consideration to allow a municipality the power to prohibit smoking in public places such as restaurants would create a situation in which the restaurant industry in Scarborough would find itself at a distinct disadvantage compared to other municipalities in Metro Toronto. It would distort competition and would punish restaurant operators in Scarborough, as well as people working within the Scarborough restaurant industry.

During Bill 119 hearings, the ORA recommended to the committee the establishment of a provincial standard to regulate restaurant smoking guidelines in Ontario and to develop a provincial standard to avoid the patchwork disadvantage which is being created with Bill Pr101. Once again, we would encourage this committee to recommend that the government of Ontario examine provincial legislation which would avoid the patchwork legislative burden which is being created with Pr101.

Banning smoking in restaurants would create even further economic hardship for Scarborough restaurants which are facing severe economic difficulties. The food-service sector is a major employer across Ontario and currently employs 235,000 Ontarians, jobs that will be at risk if Pr101 proceeds forward.

The foodservice and hospitality industry already strives to respect and to ensure the rights of non-smokers will be respected in our establishments. As pointed out by a previous presenter, many operators have already adopted smoke-free restaurants, but these initiatives are done as a result of their consumer concern or the composition of their unique customers, and not as a result of government legislation. However, banning smoking in restaurants is not applicable to all types of establishments and all types of consumer compositions. Therefore, we would encourage that a ban not be enabled under Bill Pr101.

The ORA hopes the members of the standing committee will take into consideration the serious needs of the restaurant and foodservice industry in Scarborough and set Bill Pr101 aside until such time as Bill 119 is dealt with by the Legislature.

Mr Tom Friedland: My name is Tom Friedland. I'm a lawyer at Goodman and Goodman, and we represent Bryan Robinson Agency Ltd. Bryan Robinson Agency Ltd carries on business as Club Bingo in the city of Scarborough. We're here speaking in opposition to private member's bill 101.

Our position is very straightforward; it's even clearer than with respect to the restaurants. This bill will put Club Bingo out of business. I'd like to tell you why this is so.

The basic fact is that, for a variety of reasons, people at bingo halls smoke. Our surveys have shown that 85%-plus of people at bingo halls sit in the smoking section. The non-smoking section at Club Bingo is always empty, always has lots of capacity.

The reality is that if this legislation is introduced, the people who now play bingo and sit there in their smoky environment at Club Bingo in Scarborough will go to other municipalities where the restrictions are much less severe. The consequence is that not only will Club Bingo close and not only will the employees lose their jobs, but also, if you understand the way bingos work, Club Bingo rents the hall to charities. Charities are the ones that actually run the bingos, and the charities earn between \$50,000 and \$200,000 each. Each of 25 to 30 charities earn that money from operating bingos at Club Bingo in Scarborough, and they will not have that opportunity to earn that money.

Club Bingo is not necessarily opposed to a province-wide ban on smoking in bingo halls; what it is concerned about is the ad hoc municipality-by-municipality basis that this legislation suggests. We understand that Bill 119 is going to have third reading this afternoon, and there's been a conscious decision in there not to have smoking banned at those places of public assembly. To allow this one piece of legislation to go forward would be completely contrary to what the Legislature is looking at in Bill 119.

Whether you smoke or you don't smoke, you have to look at this as a matter of fairness. What's going to happen here is that Club Bingo and other places of public assembly in the first municipalities to ban smoking are going to be prejudiced entirely. So we'd ask that you not support this legislation.

Ms Vicki Beardemphl: My name is Vicki Beardemphl. I'm a general manager of a hotel in Scarborough. I'm here representing the hotel association for all the hotels in Scarborough.

I am sure the members are aware that the accommodation industry has been dealt serious economic losses by the recession. This bill would effectively prohibit the hotels from providing service to customers who wish to smoke. They would simply go to another municipality for lodging, a meeting or to eat and drink.

We are certainly understanding of the problems related to smoking and go out of our way to ensure that non-smokers' rights are fully respected. However, we must ensure that regulatory framework does not put us in a non-competitive position, and this bill would certainly do that.

We are a consumer-sensitive industry and we cannot afford to lose even one customer today. This bill would give Scarborough a competitive disadvantage with other municipalities, and we strongly feel it would have an overall negative impact on the tourism business.

Mr Friedland: If I may, I just want to make sure that members of the committee have a two-page letter that was circulated hopefully earlier this morning. It summarizes our position.

The Chair: Yes. We have several letters from different organizations and one of them is definitely from your firm on behalf of Club Bingo.

At this point, I would ask if there are any other interested parties who wish to come forward to speak to this bill. Seeing none, I would remind members that we have some people from the Ministry of Health as well as the Ministry of Transportation here who can answer more technical questions should they arise. I would turn to Mr Hayes and ask for any ministry input.

Mr Hayes: Actually, the Ministry of Municipal Affairs does not have any objections to this bill. It should be noted, though, and I think some of the people have mentioned it, that Bill 119, which is expected to receive third reading, actually will give all municipalities essentially the same powers as what they're asking for here, I believe. I just wanted to point that out.

There are some questions as to whether there would be any confusion with two pieces of legislation, but outside of that, the Ministry of Municipal Affairs does not have any objections. There are representatives here, as you mentioned, from MTO and Health if the members have any questions.

Mr O'Melia: Is it possible for us to retake a seat so we can address any concerns?

The Chair: Yes. We'll see how the questions go, if you could just hang on for a second. I have two questioners here. I know there's a letter from the Ministry of Transportation. Did you want to make a comment about that, Mr Ferguson?

Mr David Ferguson: I'm David Ferguson, staff member with the Ministry of Transportation. I believe you have before you a letter from our minister to the Honourable Ed Philip. Our concern relates to the inclusion of public transit vehicles in the legislation and primarily to the concern that the control over public transit vehicles is currently included in other legislation.

With respect to the Toronto Transit Commission and its vehicles, exclusive authority is granted to the TTC under the Municipality of Metropolitan Toronto Act, and in fact that act specifically precludes both the Metropolitan corporation and any area municipality from exercising authority over the TTC in its operations. In fact, the TTC, which is designated as a "street railway" under the street railway act, has adopted a bylaw, their bylaw 1, which precludes or prohibits smoking in all their facilities, both stations and vehicles.

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Secondly, the Toronto Area Transit Operating Authority Act provides GO Transit with the authority to enact regulations which prohibit smoking in their facilities, and

in fact GO has enacted regulation 1036 under its act prohibiting smoking on its vehicles.

Our final concern is that the definition of "public transit" in this draft legislation is inconsistent with the Public Transportation and Highway Improvement Act, the Public Vehicles Act and possibly with the Municipal Act. As I read this, it could include taxis as well, and the regulation of taxis is granted exclusively to both the Metropolitan corporation and the Metropolitan Licensing Commission under the Metro act.

In short, our concern is that there may be some uncertainty, some confusion, some inconsistency, and we would respectfully request that references to public transit vehicles in this legislation be deleted.

I should add as well that with respect to transit shelters, which are under area municipal control, we would support the prohibition as proposed.

Mr O'Melia: Madam Chair, can I just respond to that last comment? If I'd had a mike I think I could have saved us some time, because the reference to public transit vehicles has been taken out of the bill. That was at the suggestion of the legislative clerk when the draft bill was submitted, and that should be out of the copy; it is in my copy.

The Chair: No, in fact it isn't.

Mr O'Melia: Okay. That should be taken out. It was removed in consultation. We're still seeking to cover public transit shelters, which are entirely different entities, but public transit vehicles are as the representative of the Ministry of Transportation has stated.

The Chair: I think legislative counsel has a comment to make with regard to your comments.

Ms Lucinda Mifsud: I didn't get any instructions to take out these definitions, so we'll have to do it by motion now.

Mr O'Melia: I certainly have no problem with that. I inherited this file from a woman who's now on maternity leave. Certainly her instructions were that this had been discussed and removed, but I guess it was printed at the provincial end, not at our end. My copy has that reference taken out.

The Chair: Our copies all have them in.

Mr O'Melia: That should be taken out by motion, but that's no problem at all.

The Chair: Okay. We'll have to see what we can draft in the meantime while other people ask their questions. I would first turn to Mrs Mathysen.

Mrs Irene Mathysen (Middlesex): I was interested in your reference to research where you indicated that people who couldn't smoke in establishments were not availing themselves of those places. I wondered if you'd done similar research regarding non-smokers, because I know I myself have simply turned around and left a restaurant or an area where there is smoking because I simply couldn't tolerate or enjoy a meal or an evening in that place.

In light of the fact that airlines and many businesses are offering non-smoking for the convenience of passengers who prefer smoke-free environments, have you done

research to see whether or not you're losing business because there are smokers in there causing discomfort?

Mr David Harris: I believe the research would have taken that into account. Whereas patronage went down because of the lack of smoking there, patronage also might have gone up somewhat because they didn't allow any smoking. The end result was that 55% had lost income. So there would have been that within the research that has occurred. As restaurant patronage went down, and as it went up because it was totally non-smoking, it would have counterbalanced that; 55% said they were losing money at that stage.

Mr Oliver: It's important to note, though, that some establishments have adopted non-smoking policies as a result of concerns from consumers like yourself. Legislation would not prevent them from doing so. What we have suggested is that for some types of establishments non-smoking environments are appropriate; for others, in particular nightclubs, things like that, it's not appropriate, and it's the consumer's choice. Because you have the choice of going into the establishment or going to one that is non-smoking, you will dictate the policy and the establishment will respond to that. As we are seeing, it's major chains doing that already. Trying to move it with government legislation, however, distorts that power of the consumer.

The Chair: Mr Hansen, place your question.

Mr Hansen: The interested parties who are sitting there now can remain there because I'm going to be voting against this bill. I respect the Ministry of Health's concerns here, but I can tell you that I was health and safety rep in 1988 when smoking in the workplace came in in the designated area. At General Motors there was to be no smoking in lunchrooms, but negotiated with other members of the bargaining unit, what we did was to have lunch time from 11:30 to 12 for the non-smokers and from 12 to 12:30 for the smokers. So there can be some accommodation here.

My wife will cook at home before going out to a restaurant where she can't have a cigarette with her coffee after she's finished her meal. I've seen Mr Oliver here, for I guess about the last three weeks, there's been some issue knocking at the restaurant association or the tourism area. I can tell you that if you want to call it another nail in the coffin for the person who smokes, this is another nail in the coffin for the restaurant association. So I think we're pounding two nails at once.

I believe it should be customer-driven. There are signs in the restaurants as it is now where it says, "This is a smoking area," or, "This is a non-smoking area." What upsets me as a smoker is that I go in and sit in the smoking area and 10 people come in who are non-smokers and complain that I'm smoking in a smoking area, but they say they'll sit in the smoking area. Sorry, the sign's there: That's the way I look at it. I can't support this. I'm going in for a drink and I can't have a cigarette with my beer? I've got some bad habits, but don't take them all away from me.

The Chair: We don't want to get into that, all right? We are definitely starting as the non-smokers and we're going to end up tilting against the smokers. I appreciate

Mr Hansen's remarks.

Mr Hansen: I have no problem supporting Bill 119. Maybe there are some issues in there I don't fully agree with, but I take a look at my children and I hope they don't grow up like me.

The Chair: Now we've got everybody on the list. Anybody else want to get in while we've got the list up here?

Mr O'Neil: I don't smoke or drink, but I don't think I'd mind my children growing up like Ron a bit. How's that?

I don't propose to support this bill. We're dealing with Bill 119, and as Mr Eddy just mentioned to me, we've had hearings right across the province on this and input from everyone. I think there are segments of the tourism industry that have been very hard hit and this would be another pressure put on them. Mind you, I feel that the people in the tourism industry are also obligated to set aside certain areas within establishments to give that protection to people who don't want to be bothered by smoke. I'm hoping that Bill 119 will solve a lot of the problems we have, and I can just hope that people like Mr Hansen will repent on the lifestyle they have on smoking and drinking.

The Chair: There are some roads rockier than others. But in any case, all of that aside, I want to note for members that the wonderful hour of noon has arrived, and I know at least three of us have a briefing that we are supposed to be attending.

Mrs MacKinnon: We do?

The Chair: Not you, Ellen, but several of us do. I am open to suggestion from the members how best to continue, as in a motion to sit for another 15 minutes, or how to proceed, or if someone wants to move for a vote, that's—

Interjection.

Mrs MacKinnon: Madam Chair, I move that we sit until this bill is finished and then rise.

The Chair: We have actually a motion from Mr Jordan, who says that he would like to have the question put. That started before you put your motion forward. I will deal with Mr Jordan's first and ask, are members prepared to vote at this time? Agreed.

Mr O'Melia: Madam Chair, do we not get an opportunity to respond?

The Chair: Not at this point. We're going to start a vote. There was a majority in favour of putting the question.

Mr Hansen: Could I have a recorded vote on this one?

The Chair: Just in time for the clerk to have left. I'll give her a second to return. We have a recorded vote, if members would signify. Those in favour of Bill Pr101, please signify.

Ayes

Fletcher, Hayes, Mathysen.

The Chair: All those opposed to Bill Pr101, please signify.

Nays

Eddy, Hansen, Hodgson, Jordan, MacKinnon, O'Neil (Quinte).

The Chair: The bill is defeated. I am sorry for the applicants. Obviously, those who oppose it have another feeling. We are recessing until after routine proceedings.

The committee recessed from 1202 to 1524.

Mrs Mathyssen: Excuse me, Madam Chair, I wonder if I could ask the indulgence of the committee to grant unanimous consent to have a substitution for Mr Mills. He's the parliamentary assistant to the Solicitor General, and he's currently in the standing committee on administration of justice carrying information before that committee. Since it would be helpful to expedite a very busy agenda, I wonder if I could have that unanimous consent.

The Chair: Is there unanimous consent for that?

Mr Ruprecht: It depends on how many we are.

The Chair: Take your pulse and take your numbers. What can I say?

Mr Eddy: It's a courtesy that I would hope could be extended to any party on occasion.

The Chair: This committee doesn't tend to be terribly contentious on most occasions, so thank you. I believe we have unanimous consent.

Mrs Mathyssen: Thank you, Madam Chair. We appreciate that very much.

TOWNSHIP OF SIDNEY ACT, 1994

Continuing consideration of Bill Pr123, An Act respecting the Township of Sidney.

The Chair: Back to the business at hand. Our first order of business relates to Bill Pr123, An Act respecting the Township of Sidney. Mr O'Neil, did you want to stay there and have the deputants come forward again?

Mr O'Neil: I think that would likely be quite suitable.

The Chair: Okay. Mr Bowman, Mr Brooks, Mr Pine and, I believe, Mr Campbell. We had deferred decisions and we had interrupted discussions on this earlier this morning and, at this point, Mr Hayes, we were trying to get some more information from different ministries. Would you be able to add some more detail at this point? You have a couple of ministry people here. Could you enlighten us?

Mr Hayes: Madam Chair, I really can't enlighten you any more. We thought maybe we may have been able to work something out, but we found that we could not and we are still taking the same stand. The ministry is taking the same stand as we did this morning, that we do not support this bill.

Mr Fletcher: To the parliamentary assistant, what is the difference or are there differences between this and the Atikokan project that was approved? Are there any differences?

Mr Hayes: Yes, there are. Just one moment, so you'll have it right.

The Chair: Please make sure that you introduce yourself for Hansard.

Mr Skinner: I'm Ron Skinner with the Ministry of Municipal Affairs.

On the Atikokan bill, the ministry did not object to or support the bill. We were under the understanding that it was a one-time only, the only time that the situation would come up. Since that time, we've understood that Ontario Hydro is negotiating with several other organizations with respect to similar sites, the Sidney situation being one of them, I suppose. Had we known that in the beginning, I guess we wouldn't have lapsed into the position where we were and we would have perhaps objected to it, but at that point we thought it was only one situation.

Mr O'Neil: I have the transcript from the meetings when we met and we passed the Atikokan thing. The speaker at the time for the ministry was Mr Robson, who I believe was with the Ministry of Municipal Affairs. Of course, there was quite a discussion at that time, and I'd like to quote from some of the different things.

"To try to respond to that question, the first thing is, we had a number of interministry meetings with a number of ministries such as Municipal Affairs, Revenue, and Education to some extent. I think we would have not supported the exemption, but we have recognized that in the sense of assessing hydro-electric projects, there is quite a distinction." One comment.

Another one is: "We are establishing an interministry task force to look at assessing hydro facilities and the gas utilities and even private ones like this. We'll probably, in the future, come up with a completely different system to assess them, but in the intermediate period, we have this problem that this particular one is going to go forward. So although we would have been normally reluctant to support this at all, we are being supportive because of the difference in the treatment of the different type of systems," this being hydraulic rather than gas-fired.

1530

Mr David Johnson: "But you're saying that because this is involved with the generation of electricity, that's a little hook that allows it to meet your approval."

Mr Robson: "Well, as Tom indicated earlier, we'd have to look at each situation, but I think the important thing here is that we do recognize quite an inconsistency in the net result, so we are going to work towards trying to address that. But for the short term, the view was that we should try to see if we could make this situation more comparable to the other ones, the other ones being Ontario Hydro"—in other words, other hydro-electric plants throughout the province that are assessed on a different basis than other commercial or other projects.

Mr Melville: "Again, just to respond quickly, I think the point that Bill Robson is making, in perhaps simpler terms, is that the hydro generation facility is a special case because of the existing assessment arrangements for Hydro facilities of that nature." I understand Hydro facilities are a separate identity and have a separate nature and a separate basis. "In respect of other matters, we look at them on a case-by-case basis, but we do have ministry criteria and, as you say...."

Mr Robson: "...hydraulic water situation that this one is in. The other ones are more of a gas type. Hopefully

before even those...this problem will be resolved long before the next project moves to completion."

We have another project, as was discussed this morning. We have a project, as I say, that in the vicinity of \$13.5 million would come into the Quinte area. A riding has been mentioned where close to 3,000 jobs have been lost. That means quite a bit to our people. The parliamentary assistant said that the ministry staff had reviewed it and at the present time they stand by the decision that they wouldn't support the bill.

I also understand that there have been some discussions between ministry staff and the people involved in the project. I wonder if there isn't some type of resolution that can be arrived at to allow this project to go ahead. We likely wouldn't have this problem if everything was settled on the assessment basis, and I do believe that when the ministry staff look at this, in their fairness, and the minister, they're going to see that there has to be some sort of a different equation that's used here that would assess these plants a little differently.

We're going to end up with this plant is built, and besides that, \$13.5 million coming in and the creation of many jobs and money coming into the economy. We're going to have ongoing money that's going to be generated within the community that will help us out in the situation we have. Again, especially right now, where we're drawing \$130-a-year taxes, we're going to end up with getting a large amount of taxes that will be going in to the government and to the province through this job creation tax, income tax and all these others.

So I just ask: Is there not some way that this group can work with our committee and the ministry to get something approved here that would be suitable for everyone and allow the project to go ahead?

Mr Hayes: I'd like to refer it to staff.

Mr Skinner: If I can answer that, over the lunch hour we had an opportunity to meet with the proponents of the bill and discuss their perspective as well as the ministry's policy perspective. We exchanged views but, as we discussed at that time, this is not the position of staff alone in the Ministry of Municipal Affairs but rather is the opinion of the minister, as exemplified by the letter which he sent to committee.

In addition, it's not the Ministry of Municipal Affairs alone that has concerns but also the Ministry of Finance, and at this point we don't see that we can get back to those two respective entities and resolve any sort of compromise around this. I know that from the Ministry of Municipal Affairs' perspective, the ministry sees this as a serious issue.

You mentioned the issue of Atikokan, and our concern was that that sent the wrong message. We thought that the message was fine as a one-only situation, but it sent the wrong message and unfortunately it confuses the situation. Our minister's position is that to pass this particular private bill would further confuse the situation in terms of setting the precedent even more firmly.

Mr O'Neil: When we have a project like this and create jobs in an area—I just don't know. We've made it an exception, and I realize what you're telling me, but I

realize maybe another exception might help us out at this time. I don't know whether any of the other members have anything to add to it.

Sorry, Madam Chair, I know you were trying to reach me or say something.

The Chair: I passed a note to the parliamentary assistant. Possibly the two of you can confer while I recognize Mrs MacKinnon, and I believe Mr Eddy's on the list after that. Mrs MacKinnon, you have a question.

Mrs MacKinnon: Bills like this, to me in any case, seem a bit more than a committee should be dealing with. It would appear to me that this type of bill almost belongs in the parliamentary procedure where it would be presented, it would be debated on and it would go through the parliamentary process. It seems to me that we're being asked to make a decision here more than a committee should be involved in. Be I right or be I wrong, I question why.

The Chair: Mrs MacKinnon, did you want this to Mr Hayes?

Mrs MacKinnon: Oh, I'm sorry. Yes, through you to Mr Hayes, or to any of the other ministry staff, or whoever feels—

The Chair: They've been somewhat preoccupied trying to deal—

Mr Hayes: Make it a really brief question. What is it?

Mrs MacKinnon: I tried to be brief.

The Chair: Mrs MacKinnon is raising the point of whether either one of the ministries is trying to work to a more comprehensive, general policy on dealing with these matters because she feels that it's dealing ad hoc as projects come forward.

Have I translated that well enough for you, Mrs MacKinnon?

Mrs MacKinnon: Yes. I just wonder why something of this nature is before a committee. Why isn't it before the Legislature?

Mr Hayes: It's the proper procedure that's being followed here. You come to this committee and then, if it does get accepted, it does go into the Legislature. But I think what's happening here, and I think it was indicated this morning, is that there are people in the ministries who are working together to try to set the criteria for these types of requests. There are people who are working on that now.

I have to refer back to the letter from the Minister of Municipal Affairs. I'm going to read part of this, two paragraphs. One is actually dealing with the Atikokan act. He states that:

"I appreciate that the proponents of the private bill consider the Township of Atikokan Act in 1993 as a precedent for their bill since it also dealt with a tax reduction for a power-generating facility. I also appreciate that the township of Sidney as well as the county of Northumberland and the public and separate school boards each support this private bill, because development could stimulate the local economy through the sale of materials and supplies and the creation of jobs, directly and indirectly.

"However, I feel very strongly that enactment of this private bill would further erode the bonusing prohibition. We understood the Township of Atikokan Act was intended to accommodate the only instance where a new water-powered electric-generating facility was to be built. We now understand that Ontario Hydro," and I think this is an important point, "has been negotiating with respect to other potential similar developments. In addition, such a precedent could also have implications with respect to other types of potential industrial-commercial development."

I know it was stated in here earlier about the government giving grants or loans or what have you to other corporations, and you also have to realize that you're talking about the provincial government doing it and not the local municipalities or the school boards.

1540

Mr Eddy: I agree with Mrs MacKinnon's point because it's a matter that we are dealing with piecemeal, and it's a private bill, as it should be. But it seems to me that it's part of a much bigger picture. It really is a matter for the government to come to grips with overall government policy.

Do we want the best alternative for producing hydro-electric power, and what is that? Hydraulic, of course it is; the cleanest, most environmentally sound. It's perfect in many respects, so it is the best alternative.

It's interesting that we're dealing with this. We've been assured that the assessment of hydro-electric generating plants is being reviewed, the policy re taxation. I would go so far as to say that when that formula is decided upon and a policy is established, I would think indeed that it will bring tax relief. We're a bit ahead of our time because of that, because of the review and not knowing when it's going to be complete, but it should be given top priority; a policy should be established. I think the government and indeed the assembly should know what it really wants in this field. It's awfully important.

It's also interesting to note that it seemed to me the Minister of Municipal Affairs, in a paper some time ago, assured the municipalities that the bonusing provisions in the Municipal Act would be reviewed, with a paper to be prepared and circulated. I've forgotten; it was some time ago and I don't know where it stands now.

I really don't see, even though it's relieving municipal taxation on a certain plant, that it's really in fact bonusing, because bonusing is where you give forgiveness of taxation for a given period in order to get an industry located there. Here, the offer is to build it here, and as has been mentioned many times, it can be on this site. The river is there and it can't be moved, so you're not really stealing it from anybody.

I would think that if a new formula comes forward, taking into consideration that Ontario Hydro generating sites are taxed at a much, much lower percentage, then it should apply to this, because I think it's got two tremendous pluses: It's hydraulic power to generate the hydro and it's in a local municipality, with the hydro generated to be used there. So it's not going to need tremendous, cross-province power lines, tower lines. It has so many

good things. Maybe some people would say, "Best of all, it's going to be established and operated by the private sector," and boy, do we need to get back to that.

I'm disappointed that something can't be done that we can't give the same advantage to this particular application as we did in the case of Atikokan to get on with it and get it under way, knowing that there is a review that will probably give relief when it comes forward.

Mr Jordan: I really would like to extend Mr Eddy's description of this project. I think it's important enough that the committee should approve it and let it go on to the Legislature if it requires further debate by the Minister of Municipal Affairs, because this statement in there that Ontario Hydro is negotiating further with other private enterprises doesn't affect this at all. Those negotiations are way out there.

These negotiations have been completed, the agreement has been made. Ontario Hydro has made the commitment to receive power into the loop from this generating station. So this would be, what you might say, the second and last one that would have to be approved by this committee under a private member's bill, because I'm sure by the time the other ones are negotiated and Ontario Hydro is—mind you, they're not accepting any private generation at the present time unless it's five megawatts or under, I believe. So I don't think we're setting any precedent here by approving another one.

I know the parliamentary assistant has concern that this may go on and on and there'll be another one tomorrow. I really don't believe that's going to happen. I think in all fairness to the county and the regions and the province, we should as a committee approve this and approve it now without further delay.

Mr Hansen: Would the Ministry of Energy happen to be here yet? I had asked them to come for some explanation. Also, the last time, when we had the corporation of the township of Atikokan, we had the Ministry of Education and Training come forward also. I'm just going to read out of Hansard from June 23:

Mr Michael Riley: "I'm counsel with the Ministry of Education and Training, and I just wanted to make a couple of more or less general points about the proposed bill.

"I think from the perspective of our ministry, just to remind the committee, a tax exemption does of course shift the burden somewhere and generally it'll shift the burden to other municipalities within the same school board jurisdiction and also to some extent to the province generally, because with respect to an assessment loss below the grant ceilings for education purposes, this loss will be compensated for by provincial grants."

That's just reading out of context, not going any farther.

Also, I have the letter here from Hastings-Prince Edward county. It doesn't make all that much sense to me in a sense, reading it here. It says:

"The board of trustees have directed me to write and advise that the Hastings-Prince Edward County Roman Catholic Separate School Board is in complete support of the private member's bill which will be presented in the

House of Commons on behalf of the Trent Severn Power Corporation."

It's not the House of Commons here, but it says here, "This school board supports the request that this authority for the next ten (10) years...." They've got 10 years in there. I thought it was for 20 years in the bill.

Interjection.

Mr Hansen: Is it 20 or 25? It's 20. Okay. The letter here doesn't state the support for the 20 years. I'm just questioning—

Mr Brooks: I would suggest that is just an error on the part of the people writing it.

The Chair: Mr Brooks, you may have to move the microphone a little closer to you as well.

Mr Brooks: I would just suggest that because of the haste in the writing, if you will, there may have been some time where a person just put "10." I notice that the minister also suggested that this municipality's within the county of Northumberland, and it's not; it's in the county of Hastings. So these things do happen in graphics.

Mr Bowman: I just want to respond, Mr Hansen, to your last comment about shifting the burden to other school boards or to the Ministry of Education.

Mr Hansen: Other municipalities.

Mr Bowman: To other municipalities. I think the way we have to look at this, again, is not what we're not getting; what we have right now is a situation where you have a piece of land that is not generating any tax. The way to look at this is that if the bill goes through, the project goes through and you generate more tax. That's what's going to happen here. If the bill doesn't go through and the project doesn't go through, that's where the burden comes in, because you're not going to generate any tax from this property.

Again, we'll show you pictures of it. It's an exempt property. It has no other highest and best use. It's a long, narrow street. It's beside Highway 33. It's beside the river. It's a long, narrow piece of property. It's got no other potential. If the bill is allowed and the project goes through, I think it's a win-win situation, because you get something where there would otherwise be nothing.

Mr Hansen: No, these are just questions that—

Mr Bowman: I think that's the way you have to look at it from the financing point of view: \$35,000 or \$40,000 a year is better than \$130 a year.

Mr Hansen: The thing is that what I wanted the Ministry of Energy here for was to find out, are we going to wind up building this plant here and eliminating more of Ontario Hydro—we shut down so it costs someplace else—or is the electricity in that particular area needed and it can be sold, no problem? I know there's a contract with Hydro, but does that mean shutting down more Hydro installations?

Mr Jordan: Madam Chair, I'd just like to interject here that this being a hydraulic station—

The Chair: Mr Jordan, we do have a list, and your interjection right now—

Mr Hansen: At least let him give me an answer.

Mr Ruprecht: Yes. Let him go ahead.

1550

The Chair: He's not a ministry staff person, so I would say that the other two people who are ahead of him probably have as much right to place their question or comment as he does.

Mr Hansen: I'd like that question answered as soon as the ministry staff get here.

Mr Ruprecht: I understand that we're trying to come to some kind of accommodation here and I understand that you, of course, see what takes place in terms of trying to work out some compromise. I'd like at this stage, before I speak, to move to my colleague Mr O'Neil to make a motion, if that is acceptable to you.

Mr O'Neil: Before I make the motion—and I know that one of our members has to leave. Let's put it this way, being very blunt: If I thought we were to put it to a vote shortly and it would carry, we could carry on with the discussion. So the first thing is, that's the process that could happen.

The second one is maybe a little bit of discussion around the table that if it's not going to pass, if the government members did not support it and we were going to lose it, I would hate to see the project lost, so should we talk about a deferring of it so that the company can have some discussions with the ministry? Or, if you wanted to go ahead with the vote, I guess I'd ask—

Mr Bowman: We're happy to have discussions with the ministry, but I've got to be very blunt with this committee: We've had discussions. We've had discussions on the phone and the ministry's been very good to meet with us, but the ministry is not changing its mind. The ministry is simply telling us the basis of its position. I think, as we've said to the ministry and I'm going to say to this committee, this is a political decision at this point. If you think this is a good project, if you think this is a project worth having, then you're going to have the political will to do it.

I think you're going to come to the conclusion, as I'm trying to suggest to you, that this is not really bonusing in the sense of what the anti-bonusing provisions of the Municipal Act are designed to prevent from happening. This is not that situation, and you heard my comments this morning.

I'm happy to talk to the ministry, and I'll say here that I think we need to really speak to the political people in the ministry at this point. The staff have been very courteous; they've been very helpful in terms of explaining their position. We acknowledge that and we appreciate it, but the staff have indicated to us that they're not in a position to change their views on this matter.

Interjection: Which ministry?

Mr Bowman: With the Ministry of Municipal Affairs and with the Ministry of Finance.

In terms of deferral, again, this is a difficult position for us to take, but as we speak, as we wait during today, interest rates have risen. As I've indicated to you before, the interest rates are another factor that we have to contend with here. The costs are going up with this project. If interest rates continue to rise and we can't

come to an accommodation with respect to the taxes, that also puts the project at risk. In the months since January, since we started this process with the municipality, interest rates have risen, and that's been to our detriment in terms of getting this thing going.

We'd like to talk, but there's no point in talking if all we're going to get, if I may put it, is the line that, "We can't do anything about it."

The Chair: At this point I'd like to turn to Mr Hayes.

Mr Hayes: The time in years I think should be clarified. Mr Hansen raised that question.

Mr Tom Melville: Tom Melville, Ministry of Municipal Affairs. I just wanted a clarification on the time that's allowed in the bill. It says that the bill expires in the year 2024, which would make it 30 years. There's a 20-year provision for the bylaw and the one right of renewal, presumably, for the 10-year difference.

Mr Bowman: Excuse me, Madam Chair. I need clarification. Are we talking about the original bill that we've put before you or the modification, right now? What's before the committee?

The Chair: My package looks like this.

Mr Melville: This is the printed version of the bill that I have.

Mr Bowman: I'm sorry. Is this the bill that was originally put before the committee, that legislative counsel prepared?

The Chair: Mine doesn't have a date, so I can't give you—

Mr Bowman: Because we've received a modification. We've been told that the ministry had prepared a revised bill that would just—

Mr Melville: I'm sorry, this is not the revised version. This is your bill as is.

Mr Bowman: This is the bill that we've put before us.

The Chair: Does that answer your concern?

Mr O'Neil: Madam Chair, then I really believe what we have to do is, if the rest of the members are in agreement, I would move that we put it to a vote.

The Chair: Motion for a vote?

Mr Hansen: Mr Johnson would like to ask a question, if you don't mind.

The Chair: The motion was put forward, Mr Hansen.

Mr Hansen: Can you withdraw the motion until we've got a few more questions?

Mr O'Neil: I will withdraw. I know that Mr Johnson is from the area. Hopefully, he'd have some considerations.

Mr Paul R. Johnson (Prince Edward-Lennox-South Hastings): Thank you, Mr O'Neil, for withdrawing that and allowing me to speak.

As all members of the committee know, from time to time we are substituted for other members on committees from all caucuses. Today, I am being substituted for Gord Mills. I find myself, at least within my own brain, embroiled by two compelling arguments, one from the Minister of Municipal Affairs and one from Sidney

township. I might say that I'm torn, because as one who would normally substitute for a government committee member, there's an expectation that you will support the government's intentions. However, on the other hand, I want to say that I know how difficult it's been for Trenton, for Sidney township and indeed for all of Hastings county and Belleville and the Quinte area with regard to job losses, unemployment figures, people who are on social assistance—just the fact that the recession has particularly hit this area very hard. I think any opportunity to see construction or the production of some kind of growth in the economy in the region or in the area is eminently important.

I want to make it clear that at this point in time I really haven't come to a conclusion. I've been in the room for what now, 10 or 15 minutes? It makes it very difficult for me, having no foreknowledge of the undertaking of the committee today, to come to some responsible conclusion. I wouldn't want to make a mistake. Indeed, I may be the vote that decides, one way or the other, how this goes.

You can see the seriousness of my decision. Therefore, I would like to just walk out and not be a party to the undertaking, to be frank. But, again, I recognize the concerns as I've read the minister's letter and I also recognize the very serious economic implications of allowing this bill to pass so the project can go ahead etc. If anyone would like to help me make a decision with regard to this, I'd appreciate it.

Mrs MacKinnon: Madam Chair, could we caucus for five minutes?

The Chair: You'd like to call for a recess of five minutes? You may do that, Mrs MacKinnon.

The committee recessed from 1558 to 1605.

The Chair: Ladies and gentlemen, I'd like to call the meeting back to order. I believe we had—

Mr O'Neil: Madam Chair, I may have to ask for another five-minute deferment on this, and I don't really want to do this. Mr Jordan has a meeting with Mr Harris—I guess you can't go any higher than that—and he said he would be back within a couple of minutes.

The Chair: Another five minutes; we are adjourned for five more minutes.

The committee recessed from 1606 to 1612.

The Chair: I would like to call the meeting back to order after our brief recess. I would like to thank members for their timeliness in that regard. Our order of business again is relating to Bill Pr123, relating to the township of Sidney. Mr Fletcher, did you want to make a comment?

Mr Fletcher: No, to ask a question of the deputants. I was just wondering, with this project, did you apply to Jobs Ontario Capital or any of the government—how come?

Mr Bowman: It's entirely privately financed.

Mr Fletcher: And you didn't apply to Jobs Ontario Capital to help?

Mr Bowman: No.

Mr Fletcher: Why not?

Mr Bowman: I don't understand the question. Should we be taking government money when we can do this privately?

Mr Fletcher: But you're asking for government money through the assessment reduction.

Mr Bowman: We're not asking for government money, sir. We're not asking for any money. What we're saying is we would like ultimately, in the early years of this project, to pay less taxes than the assessment formula would require us to pay. It's not a handout.

Mr Fletcher: Which is, indirectly, a way of the government subsidizing your program: indirectly.

Mr Bowman: We're not asking a municipality for any subsidy. What we're asking them for is to agree to taxes that would make this project sustainable in its early years, and the municipalities have agreed and the local school boards have agreed and the county has agreed. We're not asking the province for anything.

Again, as I said earlier, it strikes me that this is really a local issue, and again, it's not a bonusing situation. This is not a situation where we're competing with other municipalities. Those are good policies, those bonusing policies, that make sense. You don't want municipalities to compete with each other for car companies or what not. But you can't compete for this kind of project. It either goes on this site or it doesn't go. It's just not a competition.

Mr Fletcher: Thank you.

Mr O'Neil: Madam Chair, I think I've made the motion to put it to a vote.

Mr Fletcher: Could we have a five-minute recess again? I just want to discuss a few more things.

The Chair: Recess for another five minutes, please.

The committee recessed from 1615 to 1616.

The Chair: Mr O'Neil, we did need a bit of clarification. I understand that you and the clerk have spoken about your motion during that brief recess. Would you put your motion on the record, please?

Mr O'Neil: Madam Chair, the discussion with the clerk was that there are amendments, but since the ministry staff have said these amendments have not been checked with the different ministers, in other words we can't deal with the amendments. Is that not the case?

Mr Skinner: The amendments related to the technical concerns which were mentioned in the minister's letter and which were referred to by counsel this morning, that if the bill were to proceed, then we would want an opportunity to address some of the technical concerns.

Mr O'Neil: I guess then I would have to call upon the proponents of the bill, whether you want to deal with the bill as it is, or whether you want to enter into these amendments, or just have the committee vote on the bill as it is.

The Chair: Mr Bowman, do you want a five-minute recess?

Mr Bowman: I'm happy to have the amendments go forward. I'm not supporting all of the amendments, but if you want to deal with the amendments on a clause-by-clause basis and if you'll hear our concerns with respect

to—if we can speak to them as well.

The Chair: No, I'm sorry. Procedurally, once we start the vote there will be no further discussion. We basically just move them through. If you have concerns about the amendments, and I believe you've seen the amendments—

Mr Bowman: Yes. I can tell you now what the concerns are.

The Chair: I think in that sense what Mr O'Neil is proposing is that, as the amendments have been submitted to you, they're either accepted or there's the other option, which is to vote on the bill as it is.

Mr Bowman: There's one fundamental problem that we have with the amendments. First of all, I want the committee to appreciate that we only saw the amendments at a few minutes to 3 before we reconvened this afternoon, but having had the opportunity to go through them, albeit very briefly, the major problem we have, I must be candid, is we have some concerns about some of the provisions dealing with the school boards in terms of getting their approval; not that we object to that in principle, only that we feel we've done that and it will just add to the timing, add to further delay.

But the primary concern that we have with the amendment is the last clause which repeals the act as of December 31, 1998. That's not realistic from a financing point of view. We're not convinced we could work on that time frame. We would have to have the time frame as set out in the original bill.

The Chair: Which clause are you referring to?

Mr O'Neil: We don't have that in ours.

The Chair: I don't have that, either.

Mr Bowman: It's section 6.

The Chair: I have 20, 24 and I don't have an amendment for section 6.

Mr Bowman: Again, I guess that's where we're talking at cross purposes. We've been distributed a revised bill from the ministry that changed that date to December 31, 1998.

The Chair: I know we have in the next bill that relates to a similar topic—it's not exactly the same—but Seymour, I know that it has a provision in its document relating to tax reduction to December 31, 1998, but from the material that has been handed out relating to your bill, that is not there. We'll give the clerk a minute to sort through this. I beg everyone's indulgence here. A five-minute recess because we have to get it copied.

The committee recessed from 1620 to 1622.

The Chair: I'd like to call the committee back to order and I appreciate everyone's indulgence. I believe, Mr Bowman, you have one or two comments that you wish to make.

Mr Bowman: I've just had an opportunity to confer with a principal from Trent Severn, Mr Campbell, and our position is that we would like the committee to consider the original bill that is before it; not the amendments, but just the bill that we had brought before you originally.

The Chair: All members understand that the original

bill without amendments is what is open for consideration at this time. Okay? I will ask the question at this point.

Mr O'Neil: A recorded vote too on all these, please.

The Chair: Are members then prepared to vote? Agreed. Mr O'Neil has asked for a recorded vote.

All members who are in favour of Bill Pr123, the Township of Sidney Act, please signify and the clerk will call out your name.

Ayes

Eddy, Hodgson, Jordan, O'Neil (Quinte), Ruprecht.

The Chair: All those opposed, please signify.

Nays

Fletcher, Hansen, Hayes, Johnson (Prince Edward-Lennox-South Hastings), MacKinnon, Mathysen.

The Chair: To all, thank you for your indulgence. This is not always how we conduct our business. Usually it is much more organized and expeditious. My apologies for any inconvenience to you.

The result of the vote was that the bill was defeated, so that's on the record.

I would now call forward our next order of business, Bill Pr127, An Act respecting the Town of Dresden. Mr Hope is the sponsor. May I ask where the applicant is?

Mr Randy R. Hope (Chatham-Kent): Good question.

The Chair: Is Ronald Robinson in the room? Mr Hope, if you at this moment would move to the side we'll call our next order of business.

Mr Hope: There's no problem with me handling it?

The Chair: We have to have the applicant. I'm sorry. Not that you can't handle a lot of business, but we do need the applicant.

TOWNSHIP OF SEYMOUR ACT, 1994

Consideration of Bill Pr124, An Act respecting the Township of Seymour.

The Chair: I would ask Bill Pr124, An Act respecting the Township of Seymour, come on down. Welcome, Mrs Fawcett. Sorry that it's taken us a little longer to get to your order of business.

Mrs Joan M. Fawcett (Northumberland): It's been very entertaining.

The Chair: I'm quite sure you're aware of how we proceed. If you would like to at this point introduce the applicants and make a few opening remarks, then we'll turn it over to the applicants.

Mrs Fawcett: Thank you very much, Madam Chair. I'm here on behalf of Seymour township. With me are the reeve of Seymour township at the far end, Bill Petherick; the mayor of Campbellford, Cathy Reddon; and counsel, Raymond Mikkola.

A week ago we were here and had our bill deferred until this week. The Algonquin Power Corp is asking for assistance concerning the exorbitant increase in reassessment, which really could put their almost-completed project in jeopardy. They are up and running. The committee, as you are well aware, did approve the member for Cochrane North's—Atikokan—similar bill, and so we are here, and I am here on behalf of the

township of Seymour, to ask for the same consideration of its very important and worthy project.

I'll turn it over now to the principals.

The Chair: Mr Mikkola, you're going to make the presentation on behalf of the applicant?

Mr Raymond Mikkola: Yes, Madam Chair.

The Chair: If you would proceed.

Mr Mikkola: Thank you. I'd also like to thank the committee for the week's deferral. It was a very intensive seven days of discussions and we've arrived at a compromise which, although it doesn't achieve all that the proponent and the applicant were looking for, is one that we are prepared to accept.

Algonquin Power is a privately owned small hydro developer and employs 13 people in Ontario. Algonquin has constructed a new four-megawatt small hydro project on the Trent River adjacent to the town of Campbellford's two-megawatt hydro-electric plant located within the township of Seymour.

Algonquin arranged project financing which included construction financing and long-term debt financing. During the economic feasibility analysis for the project in 1991, Algonquin requested and received an estimate of municipal taxes from the regional assessment office at Trenton. This estimate provided for municipal taxes of \$21,772 for the project when completed. For the purpose of its internal analysis, Algonquin assumed the rate of \$25,000 on the completion of the plant. This estimate, in conjunction with all other analyses that Algonquin completed, provided sufficient comfort to proceed with the project and undertake binding legal obligations. The construction phase took 18 months to complete.

In the fall of 1993, Algonquin requested an update estimate from the same regional office based on the same information that had been provided to the regional office for the purpose of the 1991 estimate. The updated estimate provided for municipal taxes of \$157,241, representing an increase of well over 700%. Because of the dramatic increase in taxes, the project no longer qualified for long-term debt. In the event that the tax level of liability is not reduced, Algonquin will become insolvent and the construction lender will be free to realize on its full recourse security.

I want to emphasize that this is a project which is substantially, almost completely, completed at this stage.

1630

Based on a precedent of a similar small hydro project near Atikokan, Ontario, the township agreed to sponsor a private bill permitting the municipality to reduce the taxes to \$50,000 per year. At this level of taxation, Algonquin is capable of providing some additional equity to meet the debt coverage ratio required by the long-term lender. Even at this reduced level of taxation, Algonquin will be by far the largest taxpayer in the township of Seymour.

The town of Campbellford currently operates a small two-megawatt power generation facility adjacent to the site on which Algonquin has constructed its project. The existing Campbellford plant, however, was not utilizing all the available water of the Trent River and there was

an opportunity to increase the site's overall generating capacity. But the town did not have the financial ability to undertake the expansion of the site.

An agreement was reached between Algonquin and the township of Campbellford which requires Algonquin to pay to the town of Campbellford a percentage of the gross revenues received by Algonquin from Ontario Hydro in consideration for the use of the location. Also, the lease held by Algonquin from the town of Campbellford for the site will expire in 25 years, at which time the new plant will be transferred to Campbellford for no consideration, leaving Campbellford with a benefit of the remaining life of the plant, which would be approximately 80 years. The new plant also generates water lease payments to the federal government as a result of the use of the Trent-Severn waterway.

In determining to resolve to make the application for the private bill, the council for the township of Seymour was cognizant of the following matters which should be brought to the committee's attention.

The application of the current method of assessment created a financial liability that rendered the project unfeasible. The proposed assessment represents an increase of 722% of the tax estimate on which Algonquin relied in electing to proceed with the project in the first place.

The township was cognizant of the effect of the purchase of local goods and services occasioned by the project.

The residents of the town of Campbellford will benefit as the ownership of the project will be turned over to the town after 25 years.

The Algonquin project is a small, non-utility generation project which, in addition to providing benefits to the town of Campbellford, is a type of energy project which has been encouraged by the government of Ontario and Ontario Hydro in so far as it produces clean power.

The project will contribute \$50,000 to the local tax base.

The Algonquin project will generate payments to the federal government by way of water-lease payments.

Significant public support exists for the Algonquin project, as reflected in a public referendum in which 87% of the voters in the town of Campbellford were in favour of the project.

Presently, all project contracts, regulatory approvals and financing have been executed, secured and arranged, respectively, and the project is constructed.

Neither the township of Seymour nor Algonquin are here today to debate the bonusing provisions of the Municipal Act or the assessment policies of the Ministry of Finance or the Ministry of Municipal Affairs. I think we've had a full discussion of those issues. I might say that with me I have Bruce Craig, the general manager of the Campbellford Public Utilities Commission; Mr Cy Johnson, the commissioner of the Campbellford Public Utilities Commission; Ron Peters, a commissioner of the Campbellford PUC, and the reeve of the township and the mayor of Campbellford.

I don't propose to have them make presentation to the

committee, in the interests of time and given the full discussion of all these issues that took place immediately prior to my presentation. We are here because of the peculiar circumstances of our case and, to put it bluntly, we find ourselves in terrible trouble as a result of the increase in the level of tax following the completion of our project. If the bill is not approved, the result will be insolvency.

We've seen how difficult it is to deal with the issue of bonusing. For the past several days, we've been dealing with that issue with the Ministry of Municipal Affairs and we have arrived at a compromise. That compromise is reflected in a letter dated June 21, 1994, addressed to the clerk of the committee under hand of the minister, Mr Ed Philip. I won't read the entire letter, given that I understand you have a copy of it, but I will read from the second page, which I think is the relevant portion:

"I appreciate that after this project was undertaken the methodology for assessing such facilities was revised. This resulted in a much higher tax responsibility which jeopardizes the financial viability of this project. Given the particular circumstances in this instance and the fact that a review of the assessment methodology will take some time, I would be prepared to support the private bill if the sponsor was willing to limit the period for the tax reduction to December 31, 1998."

I'm pleased to say that the sponsor of the bill has agreed to so limit the time of the bill.

The amendments to the bill, I think it's fair to say, address the concerns of the Ministry of Municipal Affairs, so accordingly, I would ask that the committee support the bill. The bill has the support of the Ministry of Municipal Affairs and I think, in view of the circumstances of the development and the project, that it's equitable and right and just that you should do so.

The members who are present from the Campbellford PUC, the town of Campbellford and the township of Seymour are here, as well as Mr Dave Kerr from Algonquin Power, to answer any questions which the committee might have.

The Chair: At this point, following the procedures that we normally follow on the committee, I would ask if there are any other interested parties who wish to come forward to speak to this bill at this time. Seeing none, I would ask Mr Hayes to make any additional comments on behalf of the Ministry of Municipal Affairs or highlight any concerns by any other ministries.

Mr Hayes: First, I'd like to say that the Ministry of Municipal Affairs objects to the principle of exemptions as proposed in the bill, because it undermines the province's prohibition against municipalities granting bonuses or financial assistance to businesses.

However, the ministry recognizes that Algonquin Power Corp undertook this project based on certain assumptions. After the project started, the method of assessing hydro-electric generating facilities was revised, resulting in a much higher tax responsibility than anticipated on these facilities. The Ministry of Finance has agreed to review the existing methodology of assessing and taxing such facilities. In light of this review, the

Ministry of Municipal Affairs recommends that a tax reduction of up to 75% be granted to the corporation and that it be limited to about four years, allowing the completion of the review.

The Ministry of Municipal Affairs also has some technical concerns with the bill regarding the provisions which permit only the township to decide on the reduction. The upper tier and school board should also be allowed to participate in the decision to reduce the taxes for their purposes on the facility. A letter from the minister has been sent, and it was mentioned earlier, to the Algonquin Power Corp and township concerning the bill, informing them of the ministry's concerns. I've also distributed copies of the letter to members of the committee. The ministry therefore supports this bill, provided that the amendments are agreeable and they pass with the bill.

Mr O'Neil: I guess in one way I'm very pleased to see that there has been an agreement signed between the proponents and the ministry, but I'm also upset with what's just previously gone on, but I'm also upset because I understand that your project is now completed. Is that right?

Ms Cathy Reddon: That's right.

Mr O'Neil: From the time of your completion to now, you're agreeing to these amendments, and you're likely agreeing because you've been sort of put under the gun. Your taxes have increased on that particular project by over 700%—a project that has been increased in taxes from what they anticipated by over 700%. The previous proponents, as they say, with what would be asked for, couldn't make their project go. I'm surprised you could make yours go. How much have you got invested in this project?

Mr Dave Kerr: A million and a half dollars.

Mr O'Neil: A million and a half dollars already. The other project was \$13.5 million, so they are, in scale, being—

Mr Kerr: The project itself is \$7.5 million.

Mr O'Neil: It's half the size of the project, so I guess there's some scaling, but you've got some people here who are going to agree with what you want because there's nothing else they can do. I'm just sorry that we can't help them further in the project.

1640

Mr Hayes: Excuse me, Madam Chair. That's really not entirely factual, what Mr O'Neil is saying, because—and I think proponents of the bill here would agree—actually there was information, when it was given to these people, that their taxes would be a certain amount. It wasn't a case of the government just saying, "We're raising the taxes." There was actually an error. Am I correct in saying that? That is really what has happened. It's a lot different than the other case you're talking about.

Mr Kerr: That's not quite right. What happened at the beginning of the project is that we asked for an assessment of taxes—

Mr Hayes: You thought it was going to be a certain amount.

Mr Kerr: —and they gave us an estimate, but they changed the methodology between start of construction and—

Mr Hayes: That's right. Okay.

Mr Kerr: It wasn't an error; it was a change.

Mr O'Neil: The change came after they'd started construction.

The Chair: That's right.

Mr Hayes: The methodology, all right.

Mr O'Neil: I don't want to get into it. If there's been an agreement between the ministry and the proponents, let's get on with it and let's pass it, so they can get out of there and know it's approved.

The Chair: Thank you, Mr O'Neil, for your vote of support.

Mr O'Neil: You're welcome.

Mr Hansen: I was just going to comment that there are amendments that are going into this bill. I've got six of them here. I think that if the other party that was before us had listened to some of the amendments, possibly their bill would have passed.

The Chair: I would ask at this point, in light of some of the previous discussion—

Mr O'Neil: I can't let that pass. This project is completed. You're talking about people who were starting a \$13.5-million project. You can't go out and get financing for that size of a project, with costs likely escalating, when you don't know what your outbound costs are going to be. These projects have to be very carefully thought out. There are other considerations. Mind you, let's get on and help these people out if we can.

The Chair: I'm just asking the clerk to make sure we all have the amendments—I know I didn't up until just now—relating to Bill Pr124. Please, everyone, check your package. Do you have yours?

Mr O'Neil: I have them now.

The Chair: At this point I would ask if members are prepared to vote. Is it agreed?

Mr Hansen: Madam Chair, I have a motion to be moved on the preamble, just before we get started.

The Chair: Actually, the preamble would be at the end, so I would be—

Mr Hansen: They put it on the front page here.

The Chair: All right, we'll go for that. It's that kind of day; let's go with the flow.

Mr Hansen: I move that the preamble to the bill be amended by striking out "assessment" in the fourth line and in the seventh line and substituting "taxes" in each case.

The Chair: All members have heard the motion. All those in favour? Any opposed? Seeing none, that's carried, as amended.

Shall the preamble, as amended, carry? Carried.

Mr Paul Johnson: I move that section 1 of the bill be struck out and the following substituted:

"Reduction of taxes

"1(1) Despite sections 111 and 362 of the Municipal

Act, the council of the corporation may by bylaw provide for a reduction of up to 75 per cent of the property taxes and business taxes that relate to local municipal purposes, other than local improvement rates, that would otherwise apply to the land described in the schedule and the occupants of that land so long as the land is occupied by Algonquin Power (Campbellford) Limited Partnership or its successors, assigns or tenants and used solely for the purpose of hydro-electric power generation.

"Condition

"(2) A tax reduction under subsection (1) may be subject to such conditions as may be set out in the bylaw.

"Further reduction

"(3) If a tax reduction is granted under subsection (1), despite sections 111 and 362 of the Municipal Act, the corporation of the county of Northumberland or a school board in the township of Seymour may by resolution direct the corporation to reduce up to 75 per cent of the property taxes and business taxes that relate to county or school board purposes that would otherwise apply to the land described in the schedule and the occupants of that land.

"Notification

"(4) If the council of the county of Northumberland or a school board passes a resolution under subsection (3), it shall forward a copy of the resolution to the corporation.

"Additional tax reduction

"(5) When the corporation receives a copy of a resolution passed under subsection (3), it shall by bylaw reduce the property taxes and business taxes for county or school board purposes, as the case may be, up to the percentage prescribed in the resolution."

The Chair: All in favour of the amendment, please signify. Opposed? Seeing none, the amendment carries.

Shall section 1, as amended, carry? Carried.

Mr Hansen: I have a motion to be moved. I move that section 2 of the bill be struck out and the following substituted:

"Duties of clerk

"(2(1) Upon the passing of a bylaw under section 1, the clerk of the corporation shall notify the assessment commissioner of the contents of the bylaw.

"Effect of reduction

"(2) The treasurer of the corporation shall strike from the roll each year that portion of the taxes that is no longer due and payable by reason of a bylaw having been passed under section 1."

The Chair: All members have heard the motion. All those in favour, please signify. Any opposed? Seeing none, the amendment carries.

Shall section 2, as amended, carry? Carried.

Mrs MacKinnon: I have an amendment for section 3. I move that section 3 of the bill be struck out and the following substituted:

"Recovery

"3. Section 421 of the Municipal Act applies, with necessary modifications, to that portion of the tax amount

struck from the roll as a result of a resolution passed under subsection 1(3)."

The Chair: All members have heard the motion. All those in favour, please signify. Any opposed? Seeing none, the amendment carries.

Shall section 3, as amended, carry? Any opposed? Seeing none, section 3 carries.

Mr Fletcher: I move that section 4 of the bill be struck out and the following substituted:

"Retroactivity

"4. A bylaw or resolution passed under section 1 may be retroactive to January 1, 1994, and applies in respect of property taxes and business taxes due and payable after that date."

The Chair: All members have heard the motion. All those in favour, please signify. Any opposed? Seeing none, the amendment carries.

Shall section 4, as amended, carry? Any opposed? Seeing none, section 4, as amended, carries.

Shall section 5 carry? Agreed.

Mrs Mathysen: I move that section 6 of the bill be struck out and the following substituted:

"Repeal

"6. This act is repealed on December 31, 1998."

The Chair: All members have heard that motion. All those in favour, please signify. Any opposed? Seeing none, that amendment carries.

Shall section 6, as amended, carry? Carried.

Shall section 7 carry? Carried.

We've handled the preamble.

Shall the schedule carry? Carried.

Shall the title carry? Agreed.

Shall the bill, as amended, carry? Agreed.

Shall I report the bill, as amended, to the House? Agreed.

Thank you to all.

Mr O'Neil: I don't want to belabour the fact and I don't want to appear I'm a sore loser, but maybe I am. I would just say, while we have some of the ministry staff here, that I've lost a \$13.5-million project in my riding. I know that on the Atikokan bill, we discussed it back on, I think it was, June 23, 1993, and I would say to the minister through you people and the ministry staff of the different ministries, for God's sake, get working on this bloody committee that you've set up so that we can establish and people are aware, if people are going to develop projects like this, what the tax structure is going to be in some of these generating plants so they can either postpone them or go ahead with these projects.

Hopefully maybe we can even revive this particular project, but the people have got to have guidelines before they can get going to borrow the money and do everything else. If I want to leave this committee with anything, and with the ministry staff, why not get at it? See if you can't do something within the next month and go back and see if we can't get this thing revived in my riding and create some jobs there.

1650

CITY OF WINDSOR ACT, 1994

Consideration of Bill Pr122, An Act respecting the City of Windsor.

The Chair: Mr Dadamo and your applicant, please. Thank you for your patience. Since you've been through this process before, if you would please begin.

Mr George Dadamo (Windsor-Sandwich): I'm sitting till midnight, so I have a lot of time.

Interjections.

The Chair: Order, please. We are trying to carry on some more business. I think we've got that over. Mr Dadamo, please continue.

Mr Dadamo: This is private bill 122, as you mentioned. The short title is the City of Windsor Act, 1994. I wanted to give you a brief overview. It's only a paragraph and I'll read it verbatim.

The City of Windsor Act, 1994, aims to regulate activities on public highways, including sidewalks and boulevards. Bylaws passed under this bill will allow the City of Windsor to regulate parking, merchandise sale and display, operation of retail stores and also permit systems.

I'm joined, from the corporation of the city of Windsor, by city solicitor Al Kellerman. Our city clerk, Thomas Lynd, is to my right.

As parliamentary assistant to the Minister of Transportation, I can clearly say to you this afternoon that these provisions contained in the bill do not impact the Ministry of Transportation, since the provisions seek to govern municipal powers which fall within the jurisdiction of the city of Windsor. These provisions do not appear to contravene either the policies or the procedures of the Ministry of Transportation.

With that, I'd like to introduce to you Al Kellerman and Tom Lynd, who will give you a brief explanation.

The Chair: Of the two gentlemen, who will be making the presentation?

Mr Al Kellerman: I think firstly, as solicitor, I would like to point out that the reason we are before you is because the existing legislation in the Municipal Act is deficient in allowing a municipality to regulate and control what goes on on the public highway.

What the city of Windsor has done is to incorporate in its own private bill legislation which was granted previously to the city of Toronto in 1993, and also which are in essence sections 1 to 5 of the bill. The enforcement of the bill is based on a City of Ottawa Act that was granted in 1992.

Mr Dadamo has set out briefly the purpose of why we're here. The city clerk, who is also the licensing commissioner, would like to express his concern, in his capacity both as the city clerk and licensing commissioner, in regulating and governing the activities which are proposed to be governed and regulated.

The Chair: Mr Lynd, your comments, please.

Mr Thomas Lynd: Very briefly, we found over the past few years an increased number of people who wished to use the public right of way to operate busi-

nesses to make their livelihood.

The city of Windsor, as you're all aware, was granted authority for the first casino in Windsor. It's brought in about 17,000 people a day. With that much traffic—and we like them to be on the street and patronizing businesses—there becomes a competitive situation with existing businesses. What this legislation does is allow the municipality to enact local regulations to really protect the public interest and the public right of way and at the same time balance those private interests of both vendors who wish to use the right of way to make a living and also those permanent tax-paying businesses.

In summary, the act, I think, is something that will give us effective control and it will more precisely define what areas we may legislate in and clear up any uncertainties so that there will be no likelihood of challenge. We ask that you do favourably consider the bill.

The Chair: One can't ever guarantee how that's going to go. At this point I would ask if there are any other interested parties who wish to come forward to speak to this bill. Seeing none come forward at this time, I would turn to Mr Hayes, on behalf of the Ministry of Municipal Affairs, to make the appropriate comments.

Mr Hayes: The ministry is not objecting to this bill because we did pass one, as already mentioned, in Ottawa, but there was a very short time frame for the ministry to really follow up. I guess the one question, though, I do have is that, as you're probably aware, when we did the Toronto bill, there were a lot of vendors who came forward. This has been circulated. They have circulated this in the Windsor Star, I guess. It has been—

Mr Kellerman: Yes, the statutory requirements have been followed.

Mr Hayes: So they were well aware that the city was doing this.

Mr Kellerman: And also, there was an article which appeared in the Windsor paper Tuesday night again, pointing out this matter would be considered by this committee today.

The Chair: Are there any questions at this point?

Mrs MacKinnon: I'm just wondering, is this bill something like what somebody requested me to do, but they wanted it done all across the province, in that various and sundry things are offered for sale on the streets and sidewalks around Toronto here, and I understand they have no licence, they have no vendor's permit. So people buy stuff from them and they're not paying any taxes. Is this what you're faced with in Windsor?

Mr Lynd: That's correct. So far, we've been very fortunate in that there hasn't been a tremendous proliferation of these types of activities recently, but there are a number who are operating and we have achieved their cooperation, but that's not to say that this will last for ever. I think if we get a lot of other competitors coming in, then we will have to have some type of clear-cut controls on their operations.

Mrs MacKinnon: I don't have a problem with this bill; I think I understand what Windsor's trying to do. What I have a problem with is, we're opening the floodgates. Windsor gets it, and then, whoosh, all the

municipalities will be in, and little wonder.

It just seems to me it's just too bad I couldn't have had the private member's bill that they were asking for—but there's only so much time to do things—in order to cover the province. Because I can understand where the retailers are coming from when you see the various—florists, vendors, whatever. I remember as a kid, we used to buy our peanuts at the corner of Christina Street. The man became quite wealthy.

As I said, I don't have a problem with the bill, and I don't blame you for doing it. I just wonder if we couldn't be doing this provincially.

The Chair: Any additional questions at this time? Seeing none, I would ask then if members are prepared to vote.

Mrs MacKinnon: No amendments?

Mr Hayes: Do you want some amendments?

Mrs MacKinnon: No.

The Chair: Mr Hayes is quite prepared to accommodate us on that front, but I would ask again—I hadn't heard someone assent to that—are members prepared to vote at this time? Agreed.

Shall sections 1 through 8 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you, Mr Dadamo, and the city of Windsor.

1700

TOWN OF DRESDEN ACT, 1994

Consideration of Bill Pr127, An Act respecting the Town of Dresden.

The Chair: Now, I would point out to members we have a somewhat unusual situation here. The applicant was unaware that he should be here and as a result has not come here to answer our questions. However, what is before us on behalf of the town of Dresden is a letter written and signed by Mr Robertson which says the following:

"This will authorize MPP Randy Hope to represent the council of the town of Dresden and its counsel at any committee hearings with reference to this bill"—and that's relating to Bill Pr127—"or any amendment of it."

I would ask, in light of the somewhat unusual nature of this, if there is agreement that we proceed.

Mr O'Neil: Have we heard from the parliamentary assistant? Are there any objections to the bill at all?

The Chair: I believe there's one amendment.

Mr Hayes: I want to hear what the MPP says and then I want to hear what the counsel says on this.

Mr O'Neil: I do too.

Mr Hope: Let me then answer Mr Hayes's questions. Mr Hayes says—

The Chair: Just one moment, please. Mr Hansen.

Mr Hansen: Before we proceed, I understood that the one time when a delegation wasn't here and one of the MPPs wanted to sit in for them, because of a snowstorm,

the bill was deferred.

The Chair: This takes a slightly different tack, Mr Hansen, in that we do have a letter authorizing Mr Hope to act on behalf of the applicant. I had just read it.

Mr O'Neil: As far as the Liberal Party is concerned, we want Mr Hope to proceed.

The Chair: Now we just have to wait for Mr Hope's colleagues to respond.

Mr Hope: Say okay, Fletch.

Mr Fletcher: Sounds good to me.

The Chair: Would you like to make your opening remarks, Mr Hope.

Mr Hope: Before you is Bill Pr127, An Act respecting the Town of Dresden. What the act does is allow council to reduce the number of councillors from six to four. Why? The reason is because for past elections they have not been able to adequately fill the delegates to run in those elected, official positions and have had to find individuals to fill those spaces. The town feels it's time it makes amendments to its structure to be more effective, and what they're doing is reducing the size of council, which will allow them to continue to be effective and efficient. I know, through the conversations I've had, that they are looking for support from this committee to move forward so they can be ready for the municipal election.

The Chair: Are there any other interested parties who wish to come forward at this time? Seeing none, Mr Hayes.

Mr Hayes: Actually, the Ministry of Municipal Affairs is not objecting to this, as long as we have one amendment that we have passed. So we don't object.

Mrs MacKinnon: Mr Hope, can you tell me what the population is of Dresden?

Laughter.

Mrs MacKinnon: I didn't ask it as a joke.

Mr Hansen: Put your other hat on, the mayor's hat.

Mr Hope: I'll put the mayor's hat on. I'm trying to remember the last time I saw the sign and how much it's changed.

Mr Hayes: Randy, it's 2,646.

Mr Hope: It's 2,646.

Mrs MacKinnon: Is that all?

Mr Hope: It's not a very big community. I walked it during the election in one night and ran the main street during the parade.

Mrs MacKinnon: Okay. The next question I have in my mind is, do you think it's going to be an appropriate thing to do this without having talked with the ratepayers?

Mr Hope: What do you mean by "appropriate thing to do"? The ratepayers are well aware of—

Mrs MacKinnon: Something here says, "without having received the assent of the electors."

Mr Hope: The electors are well aware of what's going on with the reduction of council. There was a motion put forward at the council meeting which was adopted. The people of Dresden—you're talking about a

small community. If you've got the hiccups at one end of town, at the end of the other side of town they know what's going on, that you've got the hiccups.

The community is well aware of the reduction of council. They are very supportive of this.

Mrs MacKinnon: They'll have to live with it, I guess. I thought Dresden was bigger than that. I really did.

Mr Fletcher: You're thinking of Dryden.

Mrs MacKinnon: Oh, baloney.

The Chair: Thank you, Mrs MacKinnon. I think everybody's getting slap-happy after this interesting day that we've had. Are there no further questions relating to this particular bill? All right. Are the members ready to vote? Agreed? Thank you.

Mr Hansen: I have an amendment to section 1.

I move that section 1 of the bill be amended by adding the following subsection:

"Timing

"(2) A bylaw passed under this section and a bylaw repealing it shall be passed not later than 30 days before the last day for posting notice of the offices for which persons may be nominated in accordance with the Municipal Elections Act."

The Chair: All members have heard the amendment. All those in favour? Agreed.

Shall section 1, as amended, carry? Carried.

Shall sections 2 and 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Agreed.

Mr Hope: Madam Chair, just for the public record, asking me about the amendment, who is here representing the community: I believe the legal counsel for Dresden has no problem with the amendment and the amendment is fairly standard. We just did that with the town of Bothwell, a similar amendment that was brought forward. So, for the public record dealing with the amendment, on behalf of counsel they wouldn't see it as a problem.

The Chair: You'll be happy to know, Mr Hope, we've just passed the bill.

Mr Hope: I know. I just want it for the public record.

COUNTY OF LAMBTON ACT, 1994

Consideration of Bill Pr113, An Act respecting the County of Lambton.

The Chair: At this point I'd like to call the county of Lambton, Bill Pr113, An Act respecting the County of Lambton.

Mr O'Neil: Madam Chairman, could I ask if the next bill then coming forward is the city of Ottawa?

The Chair: After the county of Lambton bill we will be dealing with the city of Ottawa bill.

Mr O'Neil: It's just that Mr McGuinty wanted to be here for the Ottawa bill.

The Chair: You might want to just give him a quick

call, because I'm not sure—

Mr O'Neil: This one will be fast, will it?

The Chair: I suspect that this one will not be as contentious as some other matters that we've dealt with today.

Mr O'Neil: Is that why you want me to leave?

The Chair: No. I'm quite happy to have you here, Mr O'Neil.

Mrs MacKinnon, if you would please introduce your applicants and make a few opening remarks if you wish.

Mrs MacKinnon: Thank you, Madam Chair. I'm happy to be here today and to represent the county of Lambton in respect to Bill Pr113. I have on my immediate right Mr Ronald Van Horne, solicitor for the county of Lambton. If the name sounds familiar it's because his father was an MPP. To Ron's immediate right is Mr Robert Krieg. What is your position?

Mr Robert Krieg: Director of Libraries.

Mrs MacKinnon: Director of Libraries for Lambton county. They're here as a result of Bill 35, that wonderful amalgamation bill for Sarnia-Clearwater. Without further ado, I'll ask Bob to go ahead.

The Chair: Mr Van Horne, please.

Mr Ronald Van Horne: Thank you, Madam Chair. You can slow me down or speed me up if you wish. I won't be very long, I hope.

Basically, as our MPP has stated, we're here as a result of Bill 35. For those of you who aren't familiar with the Sarnia-Lambton area, the county of Lambton in its current form was put together on January 1, 1991. What it enabled us to do was to bring the town of Clearwater and the city of Sarnia together, and it brought that new urban community back into the county system of government.

That was done, as was mentioned, by something called Bill 35 or the Sarnia-Lambton Act. The Sarnia-Lambton Act, in part XI, created something that we call the county library system. We had a county library system before Bill 35, but the city of Sarnia was not part of it. The village of Point Edward was not part of it. They operated their own library systems. What Bill 35 did, again, was to bring their library systems into the county and amalgamate the two systems.

The Sarnia-Lambton Act, in effect, set the broad parameters for the county and, in particular, the library system. The finer details as to how the library system was to operate were left for a joint committee to work out. A joint committee was struck under section 23 of the Sarnia-Lambton Act. It was composed of city officials and county officials, and they created something called an implementation committee report.

The implementation committee report had a series of recommendations; 10 recommendations in particular. The one which is of note for us today was that the county council become a library board for the purposes of the Public Libraries Act. At the time of amalgamation we had a committee structure at the county council level. The county council really ran the library system through a committee of council.

The city of Sarnia, on the other hand, had the autonomous board setup under the Public Libraries Act. We had equal politician representation, I should say, from both the municipality and the county and they together agreed to recommend that the county adopt the county council system; that is, that we adopt a committee structure for the governance of the libraries.

That's, in effect, what the bill is attempting to do. It's attempting to bring us into formal compliance with their legislation, because we have operated since at least 1967 at the county level as a committee of council. That's in effect what the bill is doing.

The Chair: I just want to make sure we can at least get this order of business taken care of, so I will quickly ask if there are any other interested parties present who might wish to speak to this bill. Seeing none, Mr Hayes, if you could make your ministry's comments.

Mr Hayes: The Ministry of Culture, Tourism and Recreation is certainly not opposed to this bill and also the Ministry of Municipal Affairs is not opposed to this bill. As a matter of fact, we certainly support the actions that are being taken by Lambton county. You're seeking to consolidate services under one decision-making body, an elected body, and we support that.

The Chair: Are there any questions on behalf of the members at this point? Seeing none, I'm going to ask if members are prepared to vote. Agreed.

Do sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Mr Fletcher: Madam Chair, I suggest we take a recess until after the vote. They're cutting this one short.

Mr O'Neil: Oh, they are cutting it short.

The Chair: At this point, I would like to recess until the vote is completed and then, time allowing, we'll go to the city of Ottawa bill.

Mrs MacKinnon: Thank you, Madam Chair, for accommodating Lambton county for me.

Mr Van Horne: Thank you very much.

The Chair: We'll do as much as we can for Mr McGuinty and his bill too, time allowing.

The committee recessed from 1714 to 1738.

CITY OF OTTAWA ACT, 1994

Consideration of Bill Pr28, An Act respecting the City of Ottawa.

The Chair: I'd like to call the regular meeting of the standing committee on regulations and private bills back to order. Our next order of business relates to Bill Pr28, An Act respecting the City of Ottawa. I believe Mr Grandmaître is here as the sponsor, if you would please make your opening remarks and introduce the applicant.

Mr Bernard Grandmaître (Ottawa East): Thank you, Madam Chair. On my far right is Brian Smith. Brian is the coordinator of parks and trees and maintenance for the city of Ottawa. On my immediate right is Jerry Bellomo, deputy city solicitor.

Pr28 is a very simple bill, if I can use the words "simple bill." What it does is, the city of Ottawa is asking for special legislation in respect to protecting certain trees.

Section 1 of the bill refers to "woodlots designated under the official plan of the city of Ottawa" would remain untouched "except with the consent of the corporation," and under subsection 1(b), again, the bylaw would have to identify the variety of trees and size, and it would have to be specified in the bylaw.

As I pointed out, the bylaw would be very specific. Variety and size would be included in the bill. Also, this bylaw would not interfere with any rights or powers of Ontario Hydro, the Ontario government or the regional municipality of Ottawa-Carleton.

We're ready and willing to answer all of your questions.

Mr Eddy: Madam Chair, on a point of order: Could I, as was asked earlier today, ask for unanimous consent to sub Mr McGuinty in the committee in place of Mr Ruprecht? I did have a sheet but I didn't get it delivered in time.

Interjections: Agreed.

Mr Eddy: Thank you very much.

The Chair: Thank you, Mr Eddy, and welcome, Mr McGuinty.

Sorry for the quick pause. Now we'll turn over to the applicant. I'm shuffling paper here; I'm sorry.

Mr Grandmaître: Mr Bellomo and Mr Smith.

The Chair: Mr Bellomo, are you going to be making the presentation?

Mr Jerald Bellomo: Yes, I'll make a brief presentation.

The purpose of the bill is to give the city of Ottawa greater control over the wanton destruction of woodlots and specified trees, part of what we consider to be the urban forest.

A very brief history: We made this application in November 1990. We agreed at that time to hold the matter in abeyance while the Ministry of Natural Resources and AMO entered into a committee that could study this general problem. They did study the problem and they came out with a report in 1991 that essentially recommended the same type of bill that is before you that would give municipalities this power to regulate the destruction of trees and woodlots. As you may be aware, the matter went so far as, in December 1992, MNR at that time indicating an intent to introduce legislation in the provincial Legislature.

What happened then, I guess, is that there were some concerns expressed, mainly from rural constituents, about the impact of this type of legislation, and the matter was held in abeyance. We have now reactivated it.

In our opinion, the Trees Act is clearly inadequate. There have been many examples, not only in Ottawa but in the Toronto area, of developers coming in and destroying trees prior to obtaining site plan approval. There was one about three or four years ago, an incident at St Clair and Bathurst; there was a major incident in Ottawa near

Pinecrest and the Queensway in Ottawa; and there's been a recent one near Steeles and Bayview in the city of North York, I guess it would be.

Ottawa would not be the first municipality to obtain this type of legislation. In so far as it relates to ravines, the city of Toronto and York already have similar legislation, and Oakville has had this type of legislation since 1974.

There may be a concern, and I understand that Mr McGuinty is going to make some comments along these lines, about the infringement on private property rights, if I could address that issue very briefly.

Firstly, municipalities often are involved in matters that affect property rights, specifically zoning, so this is not a precedent in that regard. Zoning is clearly an infringement on property rights.

Secondly, the legislation is very limited in scope. It's anticipated at this time there are only 10 to 15 woodlots that the city of Ottawa would want to protect, and we would protect them by designating them in the official plan.

Thirdly, in so far as it relates to specified trees, the city of Ottawa is only concerned with what we consider to be endangered trees. We have neither the will nor the resources to attempt to control the taking down of every maple, ash or juniper tree. At this point in time, Mr Smith, who is an arborist, has indicated that it would be his recommendation that there only be five specified types of trees that the city would want to protect. These are endangered trees, so to speak, in our municipality.

The fourth response that I would have to the concern about property rights is the fact that property owners will have the right of appeal. This is enshrined in the legislation.

My final comment is simply that, through negotiation and in discussions with the Ministry of Municipal Affairs, there will be three amendments put forward. The city of Ottawa is in concurrence with all three amendments.

Those are my submissions. If there are questions, either to Mr Smith or myself, we'd be happy to deal with them.

The Chair: Very good. I would ask at this point for comments from the parliamentary assistant, Mr Hayes.

Mr Hayes: Is there anybody else here objecting to this?

The Chair: I'm sorry, you're right. He's reminding me of my duties; he's very appropriately reminding me I should ask if there are any other interested parties here who wish to speak to the bill. Seeing none, I would now turn to Mr Hayes.

Mr Hayes: The Ministry of Municipal Affairs is neutral on this bill. Of course we don't object to it, but at the same time provided that the amendments deal with the conflict between regional and city bylaws, between the private act and the Ontario Building Code, and to establish a set time limit for Ontario Municipal Board appeals to be agreed to.

The Chair: I have two questioners on the list and the first one is Mr Fletcher.

Mr Fletcher: I share some of the concerns about property rights also, but if I had a poplar or a garbage tree in my backyard and I wanted to cut it down, would I have to get the permission of the corporation?

Mr Bellomo: No. Clearly a poplar tree would not be the type of tree that the city of Ottawa would want to protect under this legislation.

Mr Fletcher: If I had a diseased tree that was under the corporation's species, a diseased white pine, which is hard to find anywhere, I would have to apply to—

Mr Bellomo: Yes.

Mr Fletcher: How long would that take?

Mr Bellomo: The intent is that it would be designated to an official of the municipality, probably Mr Smith. He would go out and inspect, and if he's satisfied that it is in fact diseased, presumably the permit would be issued within a day or two.

Mr Fletcher: Within a day or two? So I wouldn't have to worry once I find a disease? I know how diseases spread through trees.

Mr Bellomo: No, it's certainly not intended that this be a lengthy process.

Mr Hansen: I was just looking in the bill. What happens a lot of times with some citizens is they wind up putting copper nails or drilling holes in it, then all of a sudden come back to say, "The tree is dying." Just coming in here, I haven't had a chance to read everything; it's quite thick. Is there anything in the bill that would cover that, malicious damage done to a tree, one of the trees that are designated? Can you give me an idea? I haven't read the bill yet. I'm looking for it here.

Mr Bellomo: For the type of trees that would be designated? At this point in time we intend to designate these five types of trees: ginkgo or ginkgo biloba trees, catalpa trees, American elm trees, black walnut and hackberry trees. Those are the five species that we at this point consider to be endangered. If we can establish that the intent was clearly malicious, then I think the person would be subject to prosecution under this piece of legislation.

Mr Hansen: Okay, fine. There was just one thing that the Chair was talking about, whether there were any objectors. Mr McGuinty has a letter that we have in front of us. There is an objector who was unable to come so I guess I'll wait for Mr McGuinty to read it out or whatever the case may be.

1750

Mr Dalton McGuinty (Ottawa South): I appreciate the opportunity to be able to raise some concerns on this proposed bill. I have heard from a number of constituents. One of them has passed along a letter to the clerk of the committee. The bill, to my understanding, and you can correct me if I'm wrong, Mr Bellomo, is unprecedented in the sense that its scope extends to the individual home owner and there is no other precedent for that kind of legislation governing whether or not I could cut a tree down that's in my backyard.

Mr Bellomo: If I could respond to that, that's not correct, with respect. The city of Toronto and the city of

York have legislation dealing with ravines, and that applies to private property as well as public property. The city of Oakville has legislation very similar to ours that applies to private property as well.

Mr McGuinty: Okay, so the Toronto legislation is confined to ravines.

Mr Bellomo: Designated ravines.

Mr McGuinty: You've got to live in a ravine to be covered.

Mr Bellomo: Yes, you have to have property that includes a designated ravine.

Mr McGuinty: In Oakville, and you correct me if I'm wrong here, there has never been a single prosecution under the Oakville bylaw for a tree on a private home owner's lot. Is that correct?

Mr Bellomo: That's my understanding, right.

Mr McGuinty: They don't feel they have the authority, essentially, under their bylaw to proceed with that.

Mr Bellomo: I can't respond to that. I don't know.

Mr McGuinty: All right. So this covers everybody in the city of Ottawa, though.

Mr Bellomo: Correct.

Mr McGuinty: I don't have any problems with this covering developers or woodlots, and I think we ought to be doing everything we can to ensure that we afford protection to trees, for all the right reasons.

My concern is that this would cover, for example, if I buy a home and I buy a tree, I put it in my backyard and I tend that tree and I prune it and I nurse it and do whatever is required, and then 20 years later I decide it's too big or I want to put in a pool or whatever, I've got to go to the city and get a permit to remove it, to take my tree down, which I paid for and tended, if it's on the protected list. Is that correct?

Mr Bellomo: If it's one of the narrow, protected list, yes.

Mr McGuinty: The question I would have is, what about a home owner who—just to come back to that one, I personally think that goes too far in terms of infringing on a private home owner's rights with respect to their property. After all, that tree is their property. How are we going to ensure that a home owner knows whether or not his or her tree is on that protected list? You gave me five names, and I don't think I know any of those trees.

Mrs MacKinnon: You don't?

Mr McGuinty: I'd love to see a black walnut.

Mr Grandmaître: There are none on Rideau Street, I'll tell you.

Mr Bellomo: The intent would be that we would advertise that if you have one of these endangered trees, a permit would be required if it is intended to take down that tree, and if the tree is not only one of these endangered trees but is of a certain calliper or size as well.

Mr McGuinty: So if I phone Mr Smith and say, "Listen, I've got a tree in the backyard; I'm not sure if it's on the protected list or not," will he come over for free and tell me whether or not it's a protected tree?

Mr Bellomo: There is no provision in the legislation,

nor would there be provision in the bylaw, for any inspection fee. Other than the permit fee, which hasn't been established but we're talking in the range of \$20 to \$30, there would be no other costs to the home owner.

Mr McGuinty: Will there be an inspection service available?

Mr Bellomo: Yes, but there would be no inspection fee.

Mr McGuinty: So the city would provide an inspection service for free.

Mr Bellomo: Right. Mr Smith indicates that we already do that type of service now.

Mr McGuinty: If a tree is damaged in a storm and it's got to come down and it's causing problems in the interim, is there going to be an expedited procedure available for me to get a permit ASAP?

Mr Bellomo: I don't even think you would require a permit in that case. That question has come up before, and it's our intent to put a provision in the bylaw that would say that this bylaw does not apply to a situation where a tree has been destroyed by lightning or some natural element.

Mr McGuinty: Who decides whether or not it's destroyed or whether it will come back?

Mr Bellomo: Sorry? Who determines—

Mr McGuinty: Who decides whether it's really had it or whether there's a good possibility it will come back?

Mr Bellomo: Again, we have trained arborists who would go out and make that assessment.

Mr McGuinty: How many of these trees do you think we're talking about in the city of Ottawa?

Mr Brian Smith: We don't have an inventory on private property, so I would have no idea exactly how many trees there are. As far as city property is concerned, it's about 10% of our urban forest. I would think it would be about the same on private.

Mr Bellomo: Of these specified trees?

Mr Smith: Of those specified trees.

Mr McGuinty: So we don't have a number then on how many it is?

Mr Smith: Not on private property, no.

Mr McGuinty: Right. How would we enforce this? How would you know if somebody took a tree down?

Mr Bellomo: Like many municipal bylaws, hopefully there's voluntary compliance, and that's clearly one of the main purposes of this type of legislation. People would comply since it is a municipal bylaw. Enforcement, like many other municipal bylaws, would often only be on a complaint basis.

Mr McGuinty: Can we not consider an amendment here which would say that the private home owner is exempted from this so that it only applies to developers and woodlots, so that it allows me to do what I want in my own backyard with my own tree?

Mr Bellomo: I really would not have the authority to concur in that type of amendment. I know in our discussions at planning committee and at council the intention was that our council wanted some control over

the destruction of trees on private property as well as on public lands.

Mr McGuinty: I'm repeating myself here, but again, this goes, from what I can gather, far beyond any other legislation anywhere in the province in that it applies right across the board. You don't have to live in a ravine or own property in a ravine. Wherever you happen to live, it doesn't matter whether you bought the tree and put it up, you're covered.

Mr Bellomo: We are on the leading edge. Ottawa has always been on the leading edge.

Mr McGuinty: That's an interesting way of putting it.

Interjections.

Mr McGuinty: Some people might categorize it as being off the edge.

I have no objections to this covering developers and I think that's quite appropriate, and woodlots, but I have some serious difficulties with this impacting on a private home owner's property.

1800

The Vice-Chair (Mrs Ellen MacKinnon): Thank you, Mr McGuinty. Ms Haeck.

Ms Haeck: I wanted to say that actually I concur with this piece of legislation, and to say on behalf of a number of constituents in my riding, St Catharines-Brock, particularly those living in Niagara-on-the-Lake, that they were very anxious to see the trees act come forward, but I understand there is a range of concerns there that obviously did not see it come forward.

On behalf of them, I would take this opportunity to say that you are leading the edge and I think it is a very good idea. The urban forest is essential to our community's wellbeing. In dealing with the range of pollutants and what is in the air, the trees obviously are extremely beneficial to us, not only to give shade on such hot days as we've had recently.

I know a ginkgo is not a terribly common tree in southern Ontario. It's an import from China, if I recall. I can only think of about two or three in the entire peninsula, and I would suspect that Ottawa, Mr Smith, probably doesn't have a whole lot of ginkgos.

Mr Smith: They don't now.

Ms Haeck: Certain varieties of the catalpa reproduce rather easily, but not all of them. Are you zone-wise a little bit beyond where most of them reach? I would say they're more from the sort of Appalachian area rather than typically from southern Ontario. If you work with the horticultural society or some other groups to do a survey, you probably wouldn't find an awful lot of these trees in the Ottawa backyard, because they are a little bit in the northern clime.

Mr Smith: We have an inventory at the present time of about 120,000 trees on city property that we know. From that inventory, approximately 50% to 60% of those are maple trees that we would not basically be interested in having in this particular bill.

What we're looking at are significant trees, trees that will have a significant impact on the neighbourhood, on

a specific species of tree, that type of thing. There may be one tree within four or five blocks that stands 200 feet tall, maybe an American elm, of which we have very few left. We would want to ensure that particular species of tree would remain, not only the fact that it's worth probably anywhere from \$15,000 to \$20,000, using the ISA evaluation, but the fact that it would require 200 to 300 2.5- to 3-inch diameter trees to replace the environmental impact that tree has on the neighbourhood.

Ms Haeck: A tree of the size you're referring to—I have a very large maple tree, and the diameter is almost the size of one of those desks, in my own backyard and it is of some age. I think the house I'm living in was built in the 1870s, so we're talking 120 years for that maple tree, probably, and the kind of trees you're talking about would take probably somewhere around 150 years to reach that maturity.

Mr Smith: Depending on the species, yes. We're looking at that type and size of tree, yes.

Ms Haeck: I agree with you that is of major value to any community. We had the situation in Niagara not too long ago where a major developer—in fact there was a lot of outrage expressed; Mrs Coppen is sitting here as an observer and it happened in her riding—came in and literally, with chainsaw in hand, in about a day or a day and a half wiped out a woodlot on his property, over 12 hectares of trees, without any consideration of anyone else in the community and asking no permission.

That's what occasioned a lot of outrage, including some activities on behalf of the town of Niagara-on-the-Lake and the cemetery there, removing some major oak trees, which definitely got people very upset. Are you asking that any effort on behalf of a developer who would wish to undertake such a major desecration—what kind of mechanism would you have in hand to basically fine or deal with the problem?

The Vice-Chair: If I may interrupt for a moment, please, the clerk has asked me to draw to your attention that it is past 6 o'clock. Do you wish to sit beyond 6 o'clock?

Mr Eddy: I would move that the committee meet for an additional 15 minutes.

The Vice-Chair: Agreed? Agreed.

Mr Bellomo: If the developer is taking down a designated woodlot or if he's taking down trees that are in the specified list, then he would require a permit, and if he failed to get a permit, he'd be subject to prosecution under the legislation.

Mr Hansen: I can't see a difference between a land owner and a developer, because if he's going to be cutting the trees down, he's developing something on his land. I don't think you can say, "Well, it's a developer, and the land owner is totally different," because both own the land.

I can see what happened in that experience in Niagara Falls, but also here in Toronto the bulldozers came in, and they were gone in a short period of time. I think there has to be some mechanism there to protect trees.

I read in this letter that I was referring to that Mr McGuinty was to present here—you know, it's a shame

that we talk about the buses in Ottawa killing the trees. Now, can you imagine if we get rid of more trees, we're going to have—well, not more buses—it's been a long day. But the air is going to be dirtier. I know the woman went on to say that we should have cleaner buses, and we could have electric buses up there, but I would say that every tree that's cut down in the neighbourhood, as was already stated, makes an environmental impact. The environmental impact that we can see in the Golden Horseshoe here is we've still got the trees on our side in Niagara. They cut them all down in Mississauga, all the way to Toronto, which makes a difference in the climate. People won't have to spend money on air-conditioning if they've got a nice tree in the backyard.

I'm going to support this bill and I've got no problem the way it is right now. Sometimes I take a look at it and it hasn't gone far enough, but I'll agree that you've started anyhow.

Mr McGuinty: The approach taken by the bill is one I have problems with. Essentially it says: "We know better than you. It may be your property, it may be sitting on your property and you may have your own reasons for dealing with it, but we don't feel that you understand the environmental implications. We don't feel you understand the energy implications. We don't feel that you know the things you need to know in order to make an informed decision about cutting down a tree." I just don't think that's appropriate in 1994 in Ontario. I think we can educate our constituents and Ontarians and people living in the city of Ottawa as to the implications associated with taking a tree down.

I want to read something into the record here that I got. It's another letter, from a Mr Cecil Morris. I'll just read a paragraph. He lives at 2143 Audrey Avenue in Ottawa, and he says:

"Consider this. A tree on my property develops a disease and I request permission to remove it. My request is denied. The tree or part of it falls and damages my home or my neighbour's home or outbuilding or fence. I would expect the city, not my insurer, to make all necessary repairs and/or replacements at no cost to me. It's my opinion that if the city assumes responsibility for all trees in the city, they should ensure that it is full responsibility."

Now, I'm going to anticipate your response, if you'll permit me to do that, and say that, well, if it was a diseased tree, the permit would be issued. I don't know about arborists, but if they are anything like economists or accountants or lawyers or doctors or teachers—

Mr O'Neil: Or politicians.

Mr McGuinty: —or politicians, they've all got their own opinion. I bet you for every opinion you give me, Mr Smith, I can get another arborist who gives me a different opinion. He'll say: "You know what? If the tree is seriously damaged, then it ought to come down." You may say, "No, I think we can revive that tree." In other words, it's not clear-cut and you're not affording the kind of comfort that's needed to pass this kind of legislation. How do you respond?

Mr Bellomo: To respond to the comment made in Mr

Morris's letter, I believe it was, as a solicitor I would say that if the city permitted a diseased tree to survive and it caused damage, then there would probably be a good cause of action against the municipality. He's probably correct there, and that's why it would be in the city's professional interest and the city's best interests to ensure that a permit be issued immediately for a diseased tree.

Mr McGuinty: We talked about species but we didn't talk about size. What are the sizes we're talking about, and does that apply to all trees or just the protected trees?

Mr Bellomo: Just the protected trees. We're talking about mature trees.

Mr Smith: That's probably the best description, a mature tree. Depending on the species, it could be varying sizes. You would never find a ginkgo or a catalpa that would be the same width as this desk, like a maple tree would grow to. So it depends on the species of tree as to what size we'd be looking at, but we'd be looking at mature trees.

Mr McGuinty: Mature, protected trees.

Mr Smith: That's correct.

Mr McGuinty: I guess I'm frustrated by the fact that we don't have a handle on how many of these trees exist or where they are and how we're going to enforce it.

Mr Bellomo: No, we don't have a complete inventory on private property, but as I indicated previously, I think initially it may have to be enforced simply on a complaint basis.

1810

Mr McGuinty: I want to make this point again. Maybe I've led a sheltered life, but I don't think I'd recognize those trees you named, and if my neighbour cut his down, if he had one, I wouldn't know if it's on the hit list or not.

Mr Bellomo: But there are certain types of trees that clearly stand up. You may not know a ginkgo biloba by name, but people would know it as being a different type of tree. We give notice of the intention to pass a bylaw and hopefully, through advertisement, people would become aware of the legislation and of the responsibilities they're under.

Mr Fletcher: This is something that Shirley Coppen was just discussing with me. I've got a tree in my backyard and it's on the list or something, I don't know. You don't have a registry of how many trees there are. One day I go out and I just knock the thing down. I chop it down and firewood it and everything. You never knew it was there. How are you going to prove it was there?

Mr Hansen: The neighbours.

Mr Fletcher: Yes, that's right. Then the neighbours say, "Hey, this guy cut down"—and I get rid of the stump and everything else. Perhaps I'm building a swimming pool. So it's gone. How do you retroactively—there's nothing you can do. You can't prove I had a tree there.

Mr Bellomo: We have that same problem in many bylaws, that there is a breach and we never become aware of it. There are all sorts of zoning irregularities that go on in the city of Ottawa and in the city of

Toronto and in every other municipality. So yes, enforcement will be a problem, but hopefully a key role of any municipal bylaw is to ensure that people know what—

Interjection: To educate them.

Mr Bellomo: To educate them, and hopefully this will help educate people as to the value of trees.

Mr Fletcher: If this passes and it becomes a city bylaw you will ensure, or at least attempt to ensure, that everyone in the city knows there is a bylaw which states—as far as the protection of trees is concerned. I know it's hard to reach every person. I know that.

Mr Bellomo: We haven't developed a public participation process specifically for this legislation, but I can anticipate that we would put a flyer in with the tax bills.

Mr Fletcher: I love those tax bill flyers.

Mr Eddy: I was thinking either a flyer, or most newspapers have a civic news section with all the important things to do and not do and the times in which to do them or not do them.

I can't help but mention the ginkgo. The ginkgo is a very special tree, as has been mentioned, discovered in a valley in China, with a fern-like leaf that has not evolved during the millennia of time. In other words, there are fossils millions of years old that show the leaf exactly the same as it is now.

You've restricted it to certain trees, which I appreciate. I note that my colleague Mr McGuinty is not opposed in any way, and I commend the city of Ottawa coming forward in an effort to save bush lots and forests etc as the city grows. We know that there are many of them, and it always upsets me that counties have very strict bylaws in some regions preventing the destruction of forest land, and I remember the Strathroy situation, yet cities can annex tremendous amounts of land and the next day they can go in because the bylaw is no longer enforceable, and that's unfortunate. So I do commend you.

On the matter of the individual trees and individual property owners, I seek the guidance of the members who are elected there, and we do have two members from the area. I kind of go by what they feel about that because I think that's an Ottawa matter, more or less, but I do strongly agree with controlling developers from going in and wholesale reducing and destroying forest lands.

The Chair: I would then ask members if they are prepared to vote.

Mr McGuinty: Is it appropriate for me to move an amendment at this point?

The Chair: Move it when we get to the section. If I might ask, Mr McGuinty, it would help if you have something in writing so it can go to the clerk.

This is a vote for Bill Pr28, section 1.

Mr Fletcher: I move that section 1 of the bill be amended by

(a) striking out "consent" in the last line of clause (a) and of clause (b) and substituting "permission" in each case; and

(b) striking out "consents" in the second line of clause (c) and substituting "permits."

The Chair: All members have heard the motion. All those in favour of the amendment? Any opposed? Seeing none, the amendment carries.

Shall section 1, as amended, carry?

Mr McGuinty: No.

Mr Eddy: No, he's got another amendment.

The Chair: You have another amendment? Would you please read your motion?

Mr McGuinty: I'm just doing this off the top of my head here. What I'd like to add is another clause (d) to section 1 which would read essentially as follows:

"Despite the foregoing, a bylaw passed pursuant hereto shall not apply to lots on which are located a place or places of residence."

The Chair: "Despite the foregoing"—

Mr McGuinty: —"a bylaw passed pursuant hereto"—

Mr Grandmaitre: Is that in order, Madam Chair?

Mr Fletcher: Yes, isn't that breaching a tenet of the—

The Chair: You can always vote it down.

Mr Eddy: No, it's just a further restriction.

Mr McGuinty: It's just a further restriction. My intent is to ensure that it applies to developers and woodlots. I don't want to put this to the single-family home, in particular.

The Chair: Okay, I've got to "pursuant." There will be a very brief recess here. Oh, I guess we can't do that in the midst of a vote.

Do we have a newly polished amendment, Mr McGuinty?

Mr McGuinty: Yes, I do, Madam Chair. With the advice of learned counsel here, I will be amending section 2.

The Chair: Section 2? I will then put the question relating to section 1.

Shall section 1, as amended, carry? Carried.

Mr McGuinty: With respect to section 2, I move that section 2 of the bill be amended by adding the following subsection:

"(2) This act does not apply in respect of trees or woodlots located on land used for a private residence."

Mr Fletcher: I have a point of order, and it's procedure: I'm wondering, this is not a new section 2, this is a part of section 2, and I also have an amendment on section 2, which is this section being struck out and substituted. I think this should come first.

The Chair: Yes, very good. If everyone can keep in mind Mr McGuinty's amendment.

Mr Fletcher: I move that section 2 of the bill be struck out and the following substituted:

"Appeal

"2. An owner of land on which a woodlot or tree is situated who has been refused a permit under this act may appeal the refusal to the Ontario Municipal Board within 30 days after the refusal."

The Chair: All members have heard the motion. All those in favour, please signify. Any opposed? The

amendment carries. I will now turn to Mr McGuinty's motion.

Mr Eddy: The tree will be dead before the OMB—

The Chair: No facetious comments, okay? We've now heard Mr McGuinty's proposed amendment several times. I would ask at this point if we could then—

Mr Fletcher: On a point of order again, Madam Chair: This would be—

The Chair: A new section.

Mr Fletcher: —section 2(a), am I correct?

The Chair: Or 2.1, whatever.

Mr Fletcher: Or 2.1?

The Chair: I think in this case it would probably be—

Mr Fletcher: Section 2.1?

Mr McGuinty: Section 2.1.

1820

Mr Fletcher: I just want to make sure we have that correct.

The Chair: It would be a new section, 2.1, and you have heard the proposed amendment. All those in favour—

Interjections.

The Chair: We don't typically have a lot of debate on these. Just let me confer here for a moment.

All right. It's been that kind of day. Bear with me. We have a new section, so that will be, shall section 2, as amended, carry? Carried.

We want to be precise. So Mr McGuinty's motion will be a new section, and at this point, Mr Johnson.

Mr Paul Johnson: I heard Mr McGuinty's motion, and I'm concerned. Maybe he could help me, and he may need to further amend his amendment.

People have lots of various sizes. People have lots of 15 and 20 acres that they build a house on and they call it their lot; a substantial amount of property, I might say. Some people live on a quarter of an acre, an eighth of an acre, depending if they're in the city.

Interjection: Hectare.

Mr Paul Johnson: I'm still speaking in the old jargon that I'm familiar with. Hectares is something new.

I'm concerned, because it's not specific and because lot size is not referred to. It's vague and could be open to a lot of misinterpretations and therefore, I think, not probably in the best interest of really fulfilling the intention of this legislation.

Mr McGuinty: I'd like to ask Mr Bellomo. Maybe he's more familiar with this than I am. Do we have large lots in the city of Ottawa?

Mr Bellomo: There are some large lots, yes. I obviously don't—

Mr McGuinty: Do we have acreage?

Mr Bellomo: Probably no more than Toronto or any other municipality of the size of Ottawa. The number of large lots is probably limited, but there are some large lots. They'd be limited, admittedly.

Mr McGuinty: Yes, in my own experience, there just aren't a lot of—

Interjection: It's not like the suburban municipalities.

Mr McGuinty: Yes, there aren't a lot of large lots in the city.

The Chair: Does that answer your question, Mr Johnson?

Mr Paul Johnson: Somewhat.

The Chair: Can we proceed with the vote, then?

Shall Mr McGuinty's amendment carry?

All those in favour?

All those opposed?

I'm sorry, Mr McGuinty, but your amendment is defeated.

Interjection: You don't have to apologize.

Mr McGuinty: I shall remember that.

The Chair: Those are the breaks.

Shall section 3 carry? Any opposed? Seeing none, section 3 is carried.

Mr Fletcher: I move that the bill be amended by adding the following section:

"Conflicts

"3.1 If there is a conflict between a provision in a bylaw passed under this act and a bylaw passed by the council of the regional municipality of Ottawa-Carleton under the Trees Act, the provision that is the most restrictive of the destruction of woodlots or trees prevails."

The Chair: All members having heard the motion, those in favour, please signify. Any opposed? The motion carries.

Shall sections 4 through 6 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Agreed.

The bill is carried. Thank you for your good work.

J.G. TAYLOR COMMUNITY CENTRE INC. ACT, 1994

Consideration of Bill Pr117, An Act respecting The J.G. Taylor Community Centre Inc.

The Chair: I would ask at this point if Mr Hope would come forward. We have a situation, ladies and gentlemen, where I'm not even sure that we all have copies—

Interjections.

The Chair: Order, please. At this point, because there was an effort to get this taken care of quickly, we also are in a situation of not having the applicant with Mr Hope, who is the sponsor. Along with the bill, we have two letters from the solicitor, one dated June 17, the other one June 22, again authorizing Mr Hope to act on behalf of the applicant. I am in your hands as to how to proceed, ladies and gentlemen.

Mr Hayes: The Ministry of Municipal Affairs would have strongly preferred that the bill be deferred till the

fall. There has not been adequate time since the introduction date of this bill, on June 20, to review and to comment on the bill or to consult with other interested ministries or to obtain approvals.

The Ministry of Education and Training has expressed the view that the school board should have the right to consent to the tax exemption, as it affects school taxes enshrined in the bill, and the staff at Municipal Affairs support this position. However, the bill appears to meet Ministry of Municipal Affairs criteria re the tax exemptions and MMA does not object formally to the bill at this time. However, the only problem that we have is hearing from other people on the bill.

Mrs Mathysen: I'd like to say, in support of this bill, that there is a charitable organization in my riding, the Special Ability Riding Institute, that applied for a similar exemption some years ago, and has that exemption. Very clearly, the good work that they do is important and needs to be supported in every way possible.

I understand that Mr Hayes is concerned and would have preferred that the school boards be contacted and able to provide letters supporting this particular tax exemption, but I would like to say that charitable institutions such as SARI and the J.G. Taylor Community Centre are important in our communities and certainly are deserving of any support we can give them.

1830

Mr Hansen: I would like to defer the bill. In here we have "retroactive to January 1, 1994." So if the bill does come up in November 1994, it's still covered in the bill. Maybe if possibly, with the Hansard here, the bill will be coming forward, maybe there can be some tax break until that point. If moneys are due on taxes, then after the bill is passed they could be paid, and you don't have to make the instalments until that period of time, leaving it up to them how they want to collect the taxes, or there wouldn't be any penalty if they had to pay them after the bill came forward before the committee.

I'd rather see that people have the opportunity. We're in a democratic society. People should have the opportunity to object to it; not just put it through this quickly.

Mr Hope: As you indicate in the preamble of the bill, the role and responsibility of the J.G. Taylor Community Centre, the objective, is to operate a community-based, social, educational, recreational centre. As indicated by MMA in the introduction of this bill, they have no problem with the bill and it meets their guidelines, which is very clear because it was just two years ago approximately that I was before this committee with a similar bill on the older adults centre.

Correct me if I'm wrong, but it seems to be—and I don't believe it's a directive from my local school boards—that the directive is coming from the Ministry of Education, which says it should have but it's not necessarily been formally put forward. Why I try to expedite

this process is that there is a substantial amount of provincial dollars involved in this facility. We're trying to get things going, get things in place, meet the objectives which are set out in Yours, Mine and Ours, the Premier's Council report on children at risk. We're dealing with children's services. There are a number of objectives.

What this does, if I look at it, and knowing possibly of the House not returning till November, it just sets things in the back window for a bit and doesn't allow the group now to focus and move. That's why I approached the House leaders for unanimous consent if there was time applicable in the committee to deal with it in an expeditious way so that during the summer period it does set the clear guidelines.

I apologize to the members, but this is not precedent-setting; there have been similar pieces of legislation passed like this. I ask for your support to move it. If you feel that your support is not warranted, then I would understand the deferral.

The Chair: I have no further speakers on the list.

Mr Hansen: Then I have to make a motion to defer it to see whether it goes on. I'll make a motion to defer the bill until the House meets again. That'll be voted on.

The Chair: We should clarify very quickly. There is some likelihood we might be here next week.

Mr Hansen: Fall sitting, let's say.

The Chair: Mr Hansen, your motion is to defer until the fall sitting. You've heard the motion.

Mr Fletcher: Can I get it clear how long we're deferring this.

The Chair: It would probably be the fall sitting.

Mr Fletcher: But if we are meeting next week, if we are sitting next week and this committee sits next week, could it not come back then with the representatives?

Mr Hansen: I'll make an amendment to my motion, "till next meeting of committee."

The Chair: "Of this committee." You've all heard the motion. All those in favour of the motion, please signify. All those opposed to the motion, please signify. The motion carries.

I'm sorry, you're going to have to vote. I will place the question again. All those in favour of the motion, please signify.

Do they all have to vote or not? Those two didn't.

Interjection: If you're in the room, you have to vote.

The Chair: I'm sorry, you're going to have to vote. I will place the question again. All those in favour of the motion, please signify. All those opposed to the motion, please signify. The motion carries.

Our meeting is adjourned.

The committee adjourned at 1836.

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

- ***Chair / Présidente:** Haeck, Christel (St Catharines-Brock ND)
- ***Vice-Chair / Vice-Présidente:** MacKinnon, Ellen (Lambton ND)
- *Eddy, Ron (Brant-Haldimand L)
- *Fletcher, Derek (Guelph ND)
- *Hansen, Ron (Lincoln ND)
- *Hayes, Pat (Essex-Kent ND)
- *Hodgson, Chris (Victoria-Haliburton PC)
- *Jordan, Leo (Lanark-Renfrew PC)
- Mills, Gordon (Durham East/-Est ND)
- *O'Neil, Hugh P. (Quinte L)
- Perruzza, Anthony (Downsview ND)
- *Ruprecht, Tony (Parkdale L)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

- Johnson, Paul R. (Prince Edward-Lennox-South Hastings/Prince Edward-Lennox-Hastings-Sud ND)
for Mr Mills
- McGuinty, Dalton (Ottawa South/-Sud L) for Mr Ruprecht
- Mathysen, Irene (Middlesex ND) for Mr Perruzza

Also taking part / Autres participants et participantes:

- Winninger, David, parliamentary assistant to Attorney General
and to minister responsible for native affairs

Ministry of Finance:

- Caines, Bob, senior manager, industrial and special properties section
- Dennis, John, economist, taxation policy branch

Ministry of Municipal Affairs:

- Hayes, Pat, parliamentary assistant to the minister
- Melville, Tom, solicitor, legal services branch
- Skinner, Ron, manager, taxation policy

Ministry of Transportation:

- Dadamo, George, parliamentary assistant to the minister
- Ferguson, David, manager, public transportation office

Clerk / Greffière: Grannum, Tonia

Staff / Personnel: Mifsud, Lucinda, legislative counsel

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Third Session, 35th Parliament

Assemblée législative de l'Ontario

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Official Report of Debates (Hansard)

Wednesday 16 November 1994

Standing committee on
regulations and private bills

Chair: Christel Haeck
Clerk: Tonia Grannum

Journal des débats (Hansard)

Mercredi 16 novembre 1994

Comité permanent des
règlements et des projets
de loi privés

Présidente : Christel Haeck
Greffière : Tonia Grannum



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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
REGULATIONS AND PRIVATE BILLSCOMITÉ PERMANENT DES RÈGLEMENTS
ET DES PROJETS DE LOI PRIVÉS

Wednesday 16 November 1994

Mercredi 16 novembre 1994

*The committee met at 1006 in committee room 1.*BEREAN BAPTIST CHURCH OF
COLLINGWOOD ACT, 1994

Consideration of Bill Pr138, An Act to revive Berean Baptist Church of Collingwood.

The Chair (Ms Christel Haeck): I would like to advise all members that the revised agenda for today is on the yellow sheet. We have had a couple of additions since the agenda was distributed last week.

Our first order of business is to deal with Bill Pr138. I welcome Mr Wilson as the sponsor. Feel free to introduce your applicants and say any opening remarks at this time.

Mr Jim Wilson (Simcoe West): I'm pleased to have with me this morning Tim Luchon, who is the pastor of Berean Baptist Church of Collingwood, and also Mr Lloyd Adams, who is a member of the congregation. I'd just point out to members that this is a growing congregation in the town of Collingwood, and it's a congregation we're very proud of. I will ask Mr Adams to explain how the incorporation inadvertently did not retain its status and would ask, in advance, members to support this request.

Mr Lloyd Adams: First of all, we just found out within the last year that it had been cancelled when Pastor Luchon came just a year ago. We got checking out the status of the church and found out that the charter was cancelled, and it was due to the fact that I guess about 10 years ago we had a pastor leaving and a pastor come in and there was a change of address on a particular street.

There were two homes in that same street and one pastor left and the other moved into a house and he moved from that house to another house on Beech Street, and somehow in the shuffle what we were supposed to be doing wasn't carried out. That's basically what has happened.

The Chair: Thank you, Mr Adams. Would the other applicant like to make any remarks at this point?

Rev Tim Luchon: Only that when we first searched it out and we looked through it, we knew we had to take care of it right away. We tried to decipher exactly how the notice was lost. The only way we could figure out is the mail shuffle, and by the time we'd found out, it had already been cancelled. We didn't even know it had been cancelled. The address, I guess, would have been the same, and at that time, when we did find out, they were going through a change. So the timing has been very bad on the whole thing.

The Chair: Thank you, Mr Luchon. I would like to ask if there is anyone at this point who has any objections to this, that's a formality, and I don't see anyone. Parliamentary assistant, Mr Hayes, do you have any comments at this point?

Mr Pat Hayes (Essex-Kent): No, the Ministry of Municipal Affairs does not have any objections to this revised act, or revival.

The Chair: I saw Mr Hansen had his hand up. Did you wish to make any remarks at this point?

Mr Ron Hansen (Lincoln): We've had quite a few charitable groups coming forward over the last four years and, I believe, before that, and I would take it that the minister was the only full-time paid person at the church, that everybody else were volunteers, volunteer secretary, volunteer president of the church council and elders and everything else, and I think this is an ongoing problem that I can see.

As the minister changed, with a new minister coming in and, as you said, the two residences—there were two different addresses—and it was sent to the other residence, the other minister had left, maybe it was forwarded to him and he never bothered replying.

You're not the only organization that's coming forward. I think it's been a big problem and I know the government supports you on the reviving of your charter here.

Mr Adams: Thank you very much.

The Chair: Any further questions or comments at this point? Seeing none, I will ask the members if they are ready to vote? Agreed?

All those in favour of Bill—we're out of practice, we haven't done this for a few months. There is a cheat sheet and I'm going to use it.

Mr Hansen: Don't pass Mr Murphy's bill because he was supposed to be up first.

The Chair: I'm going to use it now. All members are ready, including the Chair.

Shall section 1 of Bill Pr138 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Mr Ron Eddy (Brant-Haldimand): I move that the committee recommend that the fees and the actual cost of

printing at all stages and in the annual statutes be remitted on Bill Pr138, An Act to revive Berean Baptist Church of Collingwood.

The Chair: All members have heard that motion. All those in favour, please indicate. Agreed? None opposed. Gentlemen, you have your revival of your corporation.

Mr Adams: Thank you.

Mr Jim Wilson: Thank you. I miss being on this committee; it's the most efficient committee we have.

Mr Eddy: At times.

MONPRE IRON MINES LIMITED, 1994

Consideration of Bill Pr118, An Act to revive Monpre Iron Mines Limited.

The Chair: I'd like to call Bill Pr118 next.

Mr Tim Murphy (St George-St David): I'm nervous. The toughest critics are in my own party.

The Chair: Well, we usually know that, Mr Murphy, so we have to ask you to be concise and precise, and I know that your members will let you know if you're not.

Mr Murphy: That's the biggest challenge.

The Chair: At this point, if you would like to introduce the applicant, and again if you have any opening remarks at this point, please feel free to make them.

Mr Murphy: Yes. I'd like to introduce Mr Georges Dubé, counsel to Mr Paterson, who is making the application to revive Monpre Iron Mines Limited, and I would like to, before I turn it over, ask the committee to pass this bill if they would.

The Chair: Mr Dubé, please feel free to make your remarks at this time.

Mr Georges Dubé: The applicant, William Paterson, was a director of the company, just to give you an idea of who the applicant is. He currently retains shares in the company. The company is a mine prospecting and exploration enterprise which, on March 14, 1983, was dissolved as a result of an inadvertent failure to pay taxes or filing fees under the Corporations Tax Act.

At the time of the dissolution, the corporation owned properties in the province of Ontario, and continues to do so, and that is the reason why the applicant wishes to revive the company. It is my understanding that the corporation has paid all its back taxes and has received the required consents from the various ministries and also that the publication of the notice has been complied with.

The Chair: I would like to at this point ask if there are any other presenters you would wish to come forward at this time. Seeing none, I would ask the parliamentary assistant if he has any remarks on behalf of the Ministry of Municipal Affairs.

Mr Hayes: The Ministry of Municipal Affairs does not object to private Bill Pr118.

Mr Tony Ruprecht (Parkdale): The reason why I think this should have very speedy passage is because Mr Murphy looked at this in detail and I know that once he's done that then there should be no problem.

The Chair: You're saying he was precise and concise and move it on. Is that it?

Mr Ruprecht: Very precise.

Mr Murphy: I'm not going to say anything. I don't want to spoil a good thing.

The Chair: Are members ready to vote on Bill 118? Agreed.

Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

You have your revival, Mr Murphy and Mr Dubé.

Mr Murphy: Thank you very much, Madam Chair, and thank you committee. I appreciate it.

YORK ST PETER'S EVANGELISTIC
ORGANIZATION ACT, 1994

Consideration of Bill Pr121, An Act to revive York St Peter's Evangelistic Organization.

The Chair: The next order of business is Bill Pr121.

Mr Eddy: It's my privilege, on behalf of Elinor Caplan, MPP, to introduce Rev Eric Donald Squire, Sr, bishop and president of York St Peter's Evangelistic Organization, who will speak to the bill, and we would ask your consideration of same. Eric, would you speak to the bill.

Rev Eric Squire: Thank you very much. We are here on behalf of York St Peter's Evangelistic Organization. It was inadvertent that our charter was cancelled. We realized this after we endeavoured to make out receipts for income tax but questioned whether or not it would be acceptable by the Department of National Revenue and Taxation and they required a status report.

Because, inadvertently, they failed to file, referring to the persons who would look after matters of business to do with reporting and filing with the Ministry of Consumer and Commercial Relations, they failed to do their responsible duties as such, and we came to realize we were non-existent, as it were, when we were incorporated better than 26 years ago. Finally, we decided to go the route of a private bill.

Here we are now endeavouring to pick up the pieces and to carry on as we have been doing but in a legal sense. Seemingly we were operating without the blessings of the powers that be that govern and look into these matters.

I think we have fulfilled most of the requirements, if not all, and I am endeavouring to have the people looking after this do their duties in such a manner as to never have a repeat of whatever has happened, or where it went wrong. We can't really put a finger on who did what or didn't do what, but I do know one thing. I am going to be very mindful of seeing to it that things are done properly and kept in order so that this will never again occur.

1020

It is rather unfortunate, when it comes to the church, that this should take place, but we do have to abide by the rules and the regulations that govern matters of charity or religion or, if you wish, the matters of business pertaining to a corporation.

I'm hopeful that this will be a sufficient explanation because there's none other than I can give other than things turn sour like credit and the only way to rectify this is to face the problem and get some assistance, and I think you're here to assist us. We do appreciate that.

The Chair: Thank you, Rev Squire. I'm quite sure if there are any questions, the members will ask them in a moment after I refer this issue to the parliamentary assistant.

Mr Hayes: Anybody else first.

The Chair: You're right. Thank you. Are there other interested parties who wish to come forward at this time? Seeing none, Mr Parliamentary Assistant.

Mr Hayes: The Ministry of Municipal Affairs does not object to Bill Pr121.

The Chair: Are there any questions on behalf of the members?

Mr Hansen: I would say the government will support and recommend that we pass this bill so they can get on with the work that they have.

The Chair: Any other questions or comments? Are members then ready to vote on Bill Pr121? Agreed.

Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed. Mr O'Neil.

Mr Hugh O'Neil (Quinte): Madam Chair, I move that the committee recommend that the fees and the actual cost of printing at all stages and in the annual statutes be remitted on Bill Pr121, An Act to revive York St Peter's Evangelistic Organization.

The Chair: All members have heard the motion. All those in favour please signify. Any opposed? None. It's unanimous. Rev Squire, all things are in order.

Mr Squire: God bless you and thank you very, very kindly. All of you, thank you.

COMMUNITY NETWORK OF CHILD CARE PROGRAMS (WILLOWDALE) ACT, 1994

Consideration of Bill Pr133, An Act to revive Community Network of Child Care Programs (Willowdale).

The Chair: I would ask Mr Eddy to continue in his task and represent Bill Pr133.

Mr Eddy: It's my pleasure on behalf of Elinor Caplan, MPP, to introduce Nancy Collyer, solicitor with Lewis and Collyer, who will present and speak to Bill Pr133.

Ms Nancy Collyer: Thank you very much. I'm here today for this group, appearing on behalf of the applicants. This corporation was incorporated in 1985 and two years later dissolved, but this did not come to the attention of the volunteer board until six years later, and I'm unable to find a reason for that I'm afraid.

This group provides support services to community-based child care organizations and receives funding from the Ministry of Community and Social Services. The group has continued its efforts throughout and the group

has made other filings in the meantime and it only recently came to their attention.

The Chair: At this point I would ask if there are any other interested parties who wish to come forward on this matter. Seeing none, I would ask Mr Hayes, on behalf of the Ministry of Municipal Affairs, to provide any additional information.

Mr Hayes: The Ministry of Municipal Affairs does not object to this application.

Mr Hansen: Reading the last page from the Ministry of Revenue, the subject here states, "Proposed private bills—Ottawa Jewish Home for the Aged, 1993, and Brampton Bramalea Christian Fellowship Act." Can somebody give me a clarification on that last page from the Ministry of Revenue? Are we just reviving the Brampton Bramalea Christian Fellowship Act, 1993, or are we doing both in one bill?

The Chair: I'm sorry. I've got actually something else appended to mine.

Mr Hansen: I know there was a mistake, that a bill that I'm presenting—

The Chair: If you'll just give us a moment, we'll take a look at these.

Interjections.

Mr Hansen: Okay. I'll ask that question next time.

The Chair: Your basic question has been answered then?

Mr Hansen: I just want—

The Chair: Just give us another few minutes.

Just for the interest of all members, there is an appendix. The Ministry of Finance has provided a letter to members. It's dated in July of this year, and it indicates as the second paragraph:

"Being non-share capital companies, Peace Bridge Area United Fund Inc and Community Network of Child Care Programs (Willowdale) are exempt from corporations tax. As a result, this ministry has no objection to the revival of these companies by private bills."

That's signed by the associate deputy minister.

I know that the people who are sitting here from the Peace Bridge Area United Fund have just heaved a great sigh of relief, and obviously your organization is included in that exemption that they've provided, and they have no objections as well. From what Mr Hayes has provided us, I don't believe here are any other problems related to this.

At this point, are the members ready to vote?

Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the Bill to the House? Agreed.

We have completed it. You have your revival. Thank you very much.

Mr Hansen: Do we have a windup?

The Chair: No. There are no additional motions at this point.

Mr Hansen: Could I just ask a question? The thing is that you brought out the point from the Ministry of Finance, and I find it very confusing now to wind up having two subjects on one letter exempting two different groups, because we have had in the past where one group hasn't showed up, has cancelled and come the following week. So when you're reading these bills and you're reading through, to me it's a little confusing. Each bill that comes forward should have a letter from the Ministry of Finance, not two included on one. I think it's a little bit confusing. This is something new that's just happened.

The Chair: We could definitely present that request to the ministry.

Mr Hansen: Yes, because it should be included with that bill, not with other bills being associated with it.

BRAMPTON BRAMALEA CHRISTIAN
FELLOWSHIP ACT, 1994

Consideration of Bill Pr130, An Act to revive Brampton Bramalea Christian Fellowship.

The Chair: At this point I would ask Mr Eddy to continue his efforts here, and I would call Bill Pr130. If you would then, Mr Eddy, introduce the applicant.

Mr Eddy: It's my privilege to introduce Douglas Tannahill, solicitor, who will present and speak to Bill Pr130.

Mr Douglas Tannahill: Notwithstanding that Bob Callahan couldn't be here today, I have his assurance that he's supporting us for this revival. This is an application for revival of a local church in Brampton. It has a congregation of about 250 members and was incorporated in 1980. It appears that in 1986 it was dissolved for failure to file pursuant to the Corporations Information Act.

1030

What it appears has happened is that in 1986 the local pastor of the church, who was the incorporating pastor—he's still a pastor of the church—moved residences. The special notice didn't get to him and the reminder notices didn't get to him. Some five years later, when the church was doing a refinancing program to do some building, it came to their attention through a routine search that the church had been dissolved.

We are before you today asking for revival and hoping that you will forgive this inadvertence on our part.

The Chair: I would at this point ask if there are any other interested parties who would wish to come forward at this time. Seeing none, I would ask the parliamentary assistant to provide any additional information.

Mr Hayes: The Ministry of Municipal Affairs does not object to this bill.

Mr Hansen: I haven't got a question, but I think that this is similar to Bill Pr138, which Mr Wilson brought forward, and the other bills that've come forward by Mr Eddy. He's done a great job today. He has passed more bills in this committee today than he ever has in the House. I have to congratulate you on that, Mr Eddy. The government will support this bill.

The Chair: We were just trying to deal with a housekeeping matter, so I'm sorry that I was distracted.

Mr Hansen: You've got two ears.

The Chair: I know. It's one of the interesting facts that I do try to give my full concentration to the person to whom I'm speaking.

I would say at this point we have reached that point in our agenda where I ask the members, are they ready to vote?

Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Mr O'Neil: I move that the committee recommend that the fees and the actual cost of printing at all stages and in the annual statutes be remitted on Bill Pr130, An Act to revive Brampton Bramalea Christian Fellowship.

The Chair: I believe all members have heard the motion. All those in favour? Any opposed?

Mr O'Neil: We'd also be remiss if we didn't—pardon me, I shouldn't interrupt in the middle.

The Chair: There are none opposed, so I would advise you, Mr Tannahill, that Bill Pr130 is passed and you also have that additional motion. Before we excuse our presenter—

Mr O'Neil: I was going to say I don't know where this committee would ever be without the great assistance of Mr Eddy.

The Chair: He is doing wonderful double duty and we have to thank him for his efforts this morning.

PEACE BRIDGE AREA
UNITED FUND INC. ACT, 1994

Consideration of Bill Pr136, An Act to revive Peace Bridge Area United Fund Inc.

The Chair: At this point I would like to call Bill Pr136.

Mr Hansen: I'm not sitting in Mr Eddy's seat. He was sitting to the right of me there. I'm more left than what he is. I have the Peace Bridge Area United Fund Inc Act, 1994, and would call this similar—and I hope my colleagues will support this bill—to the ones that Mr Eddy has put forward. It is a charitable organization.

We have Mr Wayne Redekop, the solicitor representing the Peace Bridge Area United Fund Inc. Act, and we have Mr Collee also from Fort Erie. I think Ridgeway's part of Fort Erie, but it's a smaller community. I know Mr Redekop has his office there. I'm actually representing the honourable minister Shirley Coppen from Niagara South since she's in cabinet today.

I'm going to hand it over to Mr Redekop here.

The Chair: For those of us who live in the peninsula, we do know where Ridgeway is. Some of us have even worked there.

Mr Hansen: I just want the other members here to recognize that area also.

The Chair: Hello, Wayne, and please continue your remarks.

Mr Wayne Redekop: The Peace Bridge Area United

Fund Inc was first incorporated in 1965 by letters patent and operated under those letters patent until 1979 when notices were sent out by the ministry requiring the united fund to file appropriate information documentation. There was a failure at that time and, as a result of the failure, the letters patent were cancelled in 1979.

At that particular time, and from around the mid-1970s until approximately the mid-1980s, the united fund had continued to operate, but there was a great deal of disorganization within the particular association and there was a failure of presumably material at the provincial level to be filed. However, there were continuing reports filed with Revenue Canada as to the financial activities of the united fund.

About 1985-86 a new group of individuals became involved in the United Way in Fort Erie and matters began to progress to the current state and about three years ago there was a move to change the name from Peace Bridge Area United Fund Inc to the United Way of Greater Fort Erie in so far as regional government had expanded the boundaries of Fort Erie to include some smaller villages and part of Bertie township.

In the fall of 1991 it became apparent that in fact the letters patent had been cancelled and so efforts were made at that time to initially incorporate a new charitable organization, but it finally came down to the fact that it would be appropriate for this corporation to be revived and then from that stage can continue forward.

As I mentioned, all returns have been filed with Revenue Canada so that there's been no lack of reporting in so far as the financial activity of the organization since its inception, but there has been a failure of reporting at the provincial level.

At the present time the United Way in Fort Erie provides funding assistance to 12 local organizations, such as the YMCA, the Head Injury Association of Fort Erie, the local Red Cross, the community outreach program and several others, and it is a viable organization. It does have a vibrant group of volunteer board members and one paid employee.

We are requesting that the letters patent be revived so that the organization can continue in a proper legal fashion.

The Chair: Thank you, Mr Redekop. Any additional comments by Mr Collee at this point?

Mr Peter Collee: I just want to state that we are a volunteer board. We have several volunteers as our campaign people. All our moneys stay in the community and go back out to the agencies and with the one paid person we feel it's a most efficient way to do it and to provide funding for several groups. I think that we have to continue on in the community, but we want to do things legally and make sure everything is done right.

As Wayne mentioned, the reason for changing the name to the United Way of Greater Fort Erie is because of the regional government expanding the boundaries, and we want to make places like Ridgeway a part of what we're doing and the small community of Stevensville that I live in as part of the community and part of Fort Erie in general. This is one reason we want to make the name

change and we want to continue on as a charitable organization.

The Chair: Thank you. At this point I have to ask if there are any other interested parties who wish to come forward at this time. Seeing none, I would turn to the parliamentary assistant Mr Hayes for any additional comments.

Mr Hayes: The Ministry of Municipal Affairs does not object to this, especially with the convincing argument that Mr Hansen brought forward to this committee today.

The Chair: Mr Hansen is known for being very persuasive. At this point, I would ask if members are ready to vote on Bill Pr136. Agreed.

Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Mr Norm Jamison (Norfolk): I would like to put forward a motion on this bill. I move that the committee recommend that the fees and the actual cost of printing at all stage and in the annual statutes be remitted on Bill Pr136, An Act to revive Peace Bridge Area United Fund Inc.

The Chair: All members have heard that motion. All those in favour, please signify. Any opposed? That's unanimous.

Peace Bridge Area United Fund, you have your revival. Thank you very much for coming and have a safe trip back to our part of the world.

Mr Redekop: I will take glad tidings.

1040

DELTA CHI BETA EARLY CHILDHOOD CENTRE
(WINDSOR) INC ACT, 1994

Consideration of Bill Pr128, An Act respecting the Delta Chi Beta Early Childhood Centre (Windsor) Inc.

The Chair: At this point I would like to call forward Bill Pr128.

Interjections.

The Chair: Excuse me, some order please. I would like to call representatives forward.

Mr Hansen: Madam Chair, since I see my colleague is at another committee meeting, is it all right if I sit in for him at this point so we can carry on with the business of the committee?

The Chair: Certainly, Mr Hansen. I thank you for doing that.

Mr Hansen: I have to excuse myself, Madam Chair, that I have not met the delegation that's before the committee, but I would like to welcome them to the committee and I will represent you as your representative from your area, even though I don't live there. I don't know how else to put it, since George is busy at other functions.

I'd appreciate it if you would introduce yourself to the committee and present your bill. For the purposes of Hansard, if you can give your name and your position,

you may carry on. I'm used to doing that as Chair; I shouldn't be saying that. The Chairman should be saying this.

The Chair: Actually, I know that the lady before us is Ms Sprague and you're the executive director. Please continue, as Mr Hansen has given you some help and direction. The floor is yours.

Ms Cheryl Sprague: Good morning. I appreciate this opportunity to speak to you today.

Delta Chi Beta is an early childhood non-profit charitable corporation founded in 1986. We offer child care services for children from infants through to school age, including special-needs children. We are the only child care centre in Windsor that is open 24 hours and we also offer an arts and culture program with the cooperation of the University of Windsor drama and education department.

For eight years we did not qualify for tax exemption, as we leased our facility. However, with our Jobs Ontario grant of \$1.2 million to build a new and expanded child care centre, we now qualify for tax exemption. In determining the revenue and operating expenditures, it is necessary that municipal tax exemption be obtained in order to maintain the most economical user fees.

Child care centres that are non-profit in Windsor are either located in public or separate schools and religious institutions and do not pay municipal taxes or they are operated by the city of Windsor and St Clair College, which is our community college, and they also do not pay taxes. We understand the school board is opposed to this bill. However, we feel it is a very strong conflict of interest for the public school board to oppose this tax exemption when the public schools have 13 non-profit child care centres operating in their schools that do not pay taxes, and only one of those schools, I might add, offers an infant program.

The city of Windsor did an in-depth study on our proposal and determined that in exempting our taxes, this would only put us on the same level of playing field with all other non-profit operators in our community. We are here today to ask you to pass our bill for tax exemption for those same reasons.

The Chair: I would ask the gentleman who is sitting at your right if he has any additional comments and if he would also introduce himself for the purposes of Hansard.

Mr Mel Lewis: Thank you, Madam Chair. My name is Mel Lewis. I'm the president of Delta Chi Beta. I have been associated with Delta Chi Beta from the date that we started. We were one of the first non-profit corporations in the city of Windsor in the day care business.

For eight years we have paid a heavy lease price which included municipal and school taxes, and it was very difficult to maintain our school over the last eight years. The people involved, the eight board directors and the staff, did a lot of fund-raising over these years to maintain a very high quality day care centre. For these reasons we would like the bill to be passed.

One very large area in day care is in infant care. Infant care is the most labour-intense part of day care, and in the city of Windsor there are only six operators that offer

infant care. As Cheryl was saying, in the public school board system they have 13 day cares but they only offer infant care in one and that's because it's so labour-intense. We offer full-service day care from infants right to school age. Special-needs children: Our new building has a lift for the special-needs children. For these reasons we would like our bill passed in order to keep our per diem rates as low as we can.

The Chair: Thank you, Mr Lewis. At this point I'm required to ask if there are any other interested parties who wish to come before the committee.

Interjection.

The Chair: Okay, we have, and I think some members may have seen in their package that there is a letter appended, a handwritten letter from a Mr Rondot, and the other objector in this is the Board of Education for the City of Windsor, for which you also have one, if not two, letters indicating their concerns. At this point I would—yes, Mr Jamison.

Mr Jamison: I'm not sure if it's time yet, but I wanted to ask the ministry some questions.

The Chair: Very good. I'll put you on the list. I will first turn to Mr Hayes and ask him on behalf of the Ministry of Municipal Affairs and possibly some of the others who had communicated with him to pass on their information.

Mr Hayes: The Minister of Municipal Affairs cannot support the centre's request for private legislation since it does not meet all of the ministry's criteria, and particularly the school board approval. The ministries of Education and Finance have also written to state objections to the bill.

It also should be noted that this bill would represent the first such tax exemption for a day care centre and might lead to increased demand for similar organizations and it certainly could, in the opinion of the ministry and other ministries, create a precedent which could affect government policies at all levels.

Also, I have to refer to the letter from the Minister of Municipal Affairs, which was written November 14 to Ms Cheryl Sprague, the executive director. In the letter it states that they do meet certain criteria, except when you go to the second page, number 5 and number 6.

It said, "If the bill provides for an exemption for upper-tier and school board purposes, those bodies must approve of the exemption." Then, "The exemption should apply to property taxes only and not to other charges such as local improvement rates." So the ministry does object to this.

Interjection.

The Chair: Just a moment, Mr Eddy. We have someone on the list before you. Mr Jamison actually put his hand up very quickly, so I will turn to Mr Jamison and then you'll be next.

Mr Jamison: I understand that the recommendation from the ministry is based on setting a precedent of a sort here, and I'd like the parliamentary assistant through your staff to explain what potential ramifications there would be in passing this bill.

Mr Hayes: I will refer that.

Mr Ron Skinner: My name is Ron Skinner, with the Ministry of Municipal Affairs. There have been a number of private bills considered by the committee and approved by the Legislature that grant tax exemptions. They have been for cultural and recreational organizations and not for day care organizations such as this.

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This then would represent a precedent for the first such organization, and I dare say there are many more such organizations that would seek similar consideration for a tax exemption. In that sense, the ministry would be upset to see that precedent established. We know these are not always well received by the municipal sector, and what happens in one municipality can put pressure on another municipality to grant similar status to their organizations.

Of course, day care facilities are in some degree competing with one another, and to the extent that one would receive a tax exemption and others not, that would introduce the notion of an unlevel playing field in that industry and in that business. Also, as public funding is sometimes provided for day cares, it would introduce yet another complication in terms of the funding available for day care. On those grounds, we would not like to see such a precedent established.

We are particularly concerned here as well about the accountability issue, which is to say, the school board does not support the exemption, and in our minds, the municipality, the city of Windsor, should not make a decision as to the school taxes. It's not its money.

Mr Eddy: The question I had concerned the letter from the Ministry of Municipal Affairs, item 4, which states, "The exemption should be granted through a municipal bylaw as opposed to being exempted directly by the bill." That's I guess because the municipality has statutory authority to indeed exempt an organization from municipal taxes. That's in the Municipal Act, isn't it?

Mr Skinner: No. These bills grant that authority to the municipality. Otherwise, these properties are not exempt.

Mr Eddy: I see. So if we pass this bill, it would then be up to the municipal council and the school board to decide whether it be exempted or not as a further step. Is that the way it works?

Mr Skinner: That is the process, and as you said, sir, the municipality and the school board. In this instance the school board has no say in the matter; it's just the municipality, which is a problem for us. We don't feel the municipality should be making the decision about the school taxes.

Mr Eddy: I see. If the bill is passed, then that would—

Mr Skinner: There should be provision for some concurrence by the school board and/or the county if there was a county, but there is not.

Mr Eddy: Yes. An upper tier, right. Okay, thank you.

Mr Hansen: I don't know whether Mr Hayes can answer this. I don't know whether he was the parliamentary assistant at that time, but Mr George Dadamo came

before this committee with the Windsor arena, which was going to be built by the private sector and leased back to the city for I believe it was 33 years. We gave authorization to the city of Windsor to exempt that arena for taxes. As I heard the statement to the point, for recreational purposes, they could become exempt. The thing is, this is a building that was built by the private sector and then reverts back to the community of Windsor in 33 years.

I know the importance of early child care, which has been fought for by working people for years, that they have proper care for their children. The provinces have had to pick up the ball where the federal government hasn't in the past years. I know a grant of \$1.2 million went to this agency, but it seems like what we're doing is giving it with one hand and taking it back in the other. But I realize that the school board operates a board in the city of Windsor which is sort of independent, in a sense, at arm's length from the provincial government here, and I know the negotiations would go on with the city of Windsor and the school board.

At this point I have a very difficult way of deciding this morning. I'm not to the point to say I'm going to say with passion I'm going to vote to pass this bill, but I would be at a point that I could say at this time, if the parties are in agreement, if it comes to a point that it's going to be turned down, that we put it on the shelf and let it sit there. Can you, as parliamentary assistant, give me any background on this situation? I know it was a long question.

Mr Hayes: In answer to your first question, no, I wasn't parliamentary assistant to Municipal Affairs. To get the proper answer, I suppose I'd better turn it over to staff as to the difference between what was done for the arena and how it affects this.

Mr Hansen: If Mr Mills has a good memory, I think he was sitting in the chair at that time.

The Chair: I would suspect he does, but at this point I think we'll turn again to Mr Skinner. He may be able to provide us some insight into the matter.

Mr Skinner: The bill for the Windsor arena which you referred to was, I guess, a first effort at an innovative financing approach or an innovative method of financing in providing infrastructure in the municipality. There a private entrepreneur was moving to work with the municipality to build the facility instead of having the municipality build it itself, and it would operate it for a period and then the facility would revert back to the municipality.

In essence what it was doing was replacing the municipality as the constructor and operator of that facility, and in that arrangement the municipality then conferred the tax exemption that it would have had had the municipality done it itself, to that operator. Since that time, those types of approaches have been enacted in general legislation under, I believe it was, Bill 40—section 210.1, I'm advised by counsel.

So that has been moved from sort of a pilot project in respect of that Windsor arena to general legislation now, to enable all municipalities to make arrangements with

the private sector for the provision of municipal-type facilities. This is not a municipality-type facility. This is a day care.

Mr Hansen: Is there any tax on the casino down there?

Mr Skinner: I don't know if the casino is owned by the province or rented by the province. That would change the tax angle.

Mr O'Neil: I guess the only thing I sort of wonder is, this bill had first reading on June 22nd, 1994, and we had these letters from the Ministry of Municipal Affairs dated November 14 and from the board the 11th and 7th. These people have come in all the way from Windsor. Has this been explained to them, to express the objections that they have and save them a trip coming in, or what's sort of happened there?

Mr Hayes: I will refer that to staff, because I don't know the answer to that.

Mr Skinner: I can't give you a list of dates, sir, but staff have been in touch with this organization, with Ms Sprague, throughout this period. Our objections have been cited and known and there have been some telephone calls back and forth. I appreciate that the dates of these letters—when we knew what the situation was, that concurrence with the school board would not be forthcoming, that's why these letters were prepared just before the committee. But the organization was aware of our position well before today.

The Chair: Ms Sprague, did you have any additional comments to make at this time?

Ms Sprague: Yes, I did. I just want to make a comment about Mr Skinner's comment about being concerned about a level playing field. Presently we are not on a level playing field. We are the only non-profit charitable child care centre in Windsor, with, I believe, the exception of one other one, that have to pay taxes. All the rest of them do not pay taxes, so we are not on the level playing field.

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I also want to make a comment based on what Mr Hansen said, that the Ontario government so generously gave us this grant to build a new and expanded child care centre. However, we cannot manage the property taxes that have been assessed on this building. So, you know, in a way, as Mr Hansen said, you give to us but then you take back.

Mr O'Neil: Where does the discrepancy come in between the other groups that aren't paying and you having to? Where are they located?

Ms Sprague: They are located in the school boards, in the public schools, in the separate schools, in religious institutions. The municipality operates five child care centres and the community college, St Clair College, operates a child care centre. All of the centres do not pay taxes.

Mr O'Neil: I guess my next question would be, and maybe to staff or to yourself, in building the centre, did you not have some idea that you wouldn't be tax-free?

Mr Lewis: We applied to the city four or five years

ago for tax exemption, and at that time they told us the only way we could get tax exemption was if we owned the building. So, once we received the grant from Jobs Ontario, we assumed that because we own the building now we qualify for tax exemption, and that's when we started the private bill. We did not anticipate the school board objecting to it and we could not afford to hire a lawyer, being non-profit, so we were doing it ourselves to save the expense.

All we did was follow the lead of a non-profit corporation in Windsor that received tax exemption last year. I followed their lead and all their paperwork. I notified the school board, as they said in their compendium they notified the school board, and that's what we did. We assumed that that would be accepted from the city of Windsor, granting the exemption subject to the private member's bill.

We did not really think we had to go to the school board and go to the trustees and ask their permission. We assumed that once we owned the property we would have tax exemption, from the previous conversations I'd had with the city of Windsor four or five years ago. We were snowed under a little bit financially, so we were looking for ways out. Because none of the other child care centres pay taxes, I went to the city and said, "Is there some way we can do this?" They said, "No, not unless you own the property, and if you own the property, you can apply for a private member's bill."

Mr O'Neil: Could I ask you, going on with my question—

The Chair: Yes, but be mindful that there is at least one other person who wants to ask a question.

Mr O'Neil: Okay, sorry. The question would be, has the building been completed, what's the value of the building, and is the ownership of the building now in the non-profit organization?

Mr Lewis: The building is in the process of being built. It's about 55% complete right now. The anticipated taxes are \$26,000 a year.

Mr O'Neil: Could the building be turned over to the board of education or to the city and let them run it? Therefore, it would be tax-free like the other child care organization.

Mr Lewis: I don't think so. I don't know. The \$1.2 million that Jobs Ontario granted us for it, we had to sign with the provincial government that this is their building. They have a mortgage on it for \$1.2 million and it's a non-repayable mortgage, I think. Is that the term?

Ms Sprague: It's not a mortgage, no; it's a grant. But if the building is to transfer title, it reverts back to the province.

Mr Lewis: Yes, it reverts back to the province. When we talk about the day care centres in the public school board, the public school boards do not operate the day care centres themselves. They lease the space to non-profit day care centre operators. They don't run it themselves.

The Chair: At this point we have Mr Mills as a questioner. He hasn't had his chance yet. So, Mr Mills?

Mr Gordon Mills (Durham East): I have a great

deal of empathy with what you're telling me this morning, but nevertheless I also understand the way the system works and I know that I like to think that elected officials are consulted about things.

You have a school board that has been elected by the population at large, I believe, and somehow my understanding is that the city council has sort of usurped its authority as a school board and said, "Well, we really don't care what you say, we're going to do this."

That troubles me because I think all levels of elected officials are accountable to the people that elect them, and I feel very strange about supporting something whereby one level of an elected authority is being seemingly bypassed and ignored and someone else is doing something without them.

Unless I hear something different, I have a great deal of problems listening to the ministry people about the precedent that is being set. Are we opening the doors to have all kinds of people come forward, the impact on municipalities, unlike Windsor who perhaps couldn't afford a nickel? All these things concern me. Unless I hear something gravely different, I'm of the position that I can't support this.

Mr Anthony Perruzza (Downsview): I agree with a lot of the comments that my colleague has just made; however, I can also understand the situation that the centre is in. I'm inclined to favour an option that says that at some point this group is permitted to come back before us, because I'm not quite sure that they've actually explored all of the venues that are essentially at their disposal to be able to work out some agreement, as Mr O'Neil has suggested, either with the municipality or with the school board in order for them to qualify for some kind of exemption. It would seem to me that a \$26,000 property tax bill annually for a day care operation is an onerous thing. I don't know how they'd be able to survive.

I don't have their financial picture situated in front of me, but I would be inclined to favour an option that was a middle-of-the-road option and that said they would be given some time to try to work this out, and if they can't try to work it out at some point, they'd have the possibility to come back before us again to have a look at this.

The Chair: Is that a formal motion, Mr Perruzza?

Mr Perruzza: Well, Madam Chair, I'd really look for direction from you. I could, I suspect, put a motion of deferral or just simply table the bill before us and say they have two or three or four months, or however much time they require, to go and try to work it out in some amicable way with the other parties possibly involved and, at that point, if they haven't been able to do that, be able to come back here so that we can at least take a serious look at maintaining and trying to sustain an operation which will provide a good benefit for the entire community in the Windsor area.

It would also give some of the Windsor members—Mr Dadamo certainly; not that Mr Hansen isn't doing an excellent job in sponsoring the bill this morning—but certainly Mr Dadamo and possibly some of the other representatives from the Windsor area, to have a look at

this and try to work with the group to work out their dilemma. If that's what you—

The Chair: I would prefer a motion. I think it's easier for all of us if you would do that.

Mr Perruzza: I would simply move deferral of this for that to happen. I don't want to put a date on it per se but just say in the motion that when the group requests to bring their bill forward that the clerk do whatever she can to ensure that it's brought forward at the earliest possible time after they formally request to do that.

The Chair: I've been informed by the clerk that we have to vote on that motion.

Mr Eddy: May I speak to the motion?

The Chair: Mr Eddy, you were on the list, so please.

Mr Eddy: I appreciate the motion because it's very much in my thinking. I do support the application in that having heard the reasons for it and the comparison, it's important as legislators that we do as much as possible support a level playing field. I see that this is not under the present circumstances.

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I have a real problem with the board of education having non-profit organizations operating their day cares or the facilities they provide for day care facilities within their schools, which are not taxable, then saying to another non-profit organization, which owns its building, which has been financed through Jobs Ontario—a great project by the sound of it and has created jobs, but unfortunately perhaps this particular problem wasn't anticipated or investigated.

So I really have a problem with the board when it appears to me that it's a very similar and like operation, doing exactly the same thing, operated in the same way, operated by a non-profit organization as I guess you would term the school board as well. I agree very much with the motion. I strongly support it. Thank you for presenting it.

Mr Hansen: There's sort of a question I'd like to ask legal counsel.

The Chair: Only on the motion.

Mr Hansen: It has to do with the motion. I want just to clarify on how I'm going to vote on this. I need to know if the—and there's been a municipal election. We might see new faces on the school board; I don't know; I'm not from Windsor. They could have different ideas, because this was written on the seventh day of the month and we had an election a week later, this last Monday, and we have some new faces.

But the other thing too for clarification on this motion, could not the day care centre, the Delta Chi Beta wind up talking to the school board of paying your school tax of \$26,000 and request a refund back from the school board, but yet they've paid it? It would be up to the school board to decide it. Or would that have to be a Pr bill?

The Chair: Is this a question to Mr Skinner?

Mr Hansen: To legal staff, whoever's got the biggest hat on there.

The Chair: Please then introduce yourself for the purposes of Hansard.

Mr Mike Riley: My name is Mike Riley. I'm a counsel at the Ministry of Education and Training. In response to that question, I believe it would require legislation. There's no authority of which I'm aware at this time to take such action or that type of approach. It could be done in the bill.

The Chair: Okay. At this point I'm going to ask Mr Riley to vacate that warm spot for Mr Hayes, because it's now Mr Hayes's turn to ask a question or make a comment, and then Mr O'Neil.

Mr Hayes: Just on Mr Perruzza's motion, he did indicate that we could look at different avenues. Of course, as I indicated earlier, it's important that all levels of government that are affected be in agreement with these exemptions.

One of the questions I wanted to ask was, the city is in favour of exempting you from the property taxes, but have you ever gone to the city, because they can do it. They can give you a grant to the equivalency of that amount of money. That's my understanding. That's another avenue also.

Mr O'Neil: Who can give the grant?

Mr Hayes: The municipality can.

The Chair: The question is to Ms Sprague.

Mr Hayes: That's another avenue I'm suggesting, that's all, or asking whether you have done that.

Ms Sprague: You're asking me if we have approached the municipality for a grant for the taxes? When we went in front of city council, that was discussed among the councillors but it didn't go very far, because the councillors said it would be an annual request and it would be difficult to forecast budgeting and planning within the non-profit corporation. So it didn't continue. It was discussed among councillors, and they approved the full tax exemption.

Mr O'Neil: You know, we have a problem here and I don't know where the blame lies, but the thing is, whether it lies with the non-profit organization or lies with Jobs Ontario or with the discussions that have taken place with the council or with the board of education, it's like, you've got a building going up that's worth—how much again?

Ms Sprague: The building is worth \$600,000, but the whole project is \$1.2 million.

Mr O'Neil: So you have a \$1.2 million project where a lot of this thing doesn't seem to have been ironed out or clarified before approval was given for a Jobs Ontario grant, and it's placed your organization in some sort of a quandary as to what do you do. I believe you're going to have to go back and review this thing with Jobs Ontario, with the board of education, with municipal people and with yourselves to see just how you'll handle the problem you have, because it could be a major problem.

Mr Jamison: This is rather perplexing, because certainly when we're talking about a level playing field for a not-for-profit child care, it presents a problem that really rests, as has been described, with the municipality. But getting through all of this, really it's very important and I think it's very crucial for a facility of that nature and of that size to be able to provide the service to the

community at the most reasonable cost. Certainly being non-profit, it's important to understand that that's the way you're set up to deliver your service.

It doesn't get away from the issues at this point that really stand in the way of you proceeding in that light. The issue really, I think, and most members here have agreed, does rest back in the municipal board of education end of things, and I believe that, as Mr Perruzza has indicated, we should try to find an avenue to have that issue resolved back at that end or a further attempt to do so.

Quite frankly, if I were to have to vote on this particular bill today, because of the consequences, the ramifications that don't relate directly to your particular dilemma at this point, those consequences could be rather significant overall to municipalities and school boards in similar but not like situations, not same situations.

I would like to indicate that I would be supportive of trying to further resolve this issue to meet the criteria of the Ministry of Municipal Affairs by sending this issue back to have another thorough look at whether or not there is an avenue to find a successful conclusion to this.

The Chair: Thank you, Mr Jamison. Mr Hayes, to wrap up?

Mr Hayes: Yes. All I wanted to do is I wouldn't want people going out of here with the wrong impression because of Mr O'Neil's comments about Jobs Ontario, because Jobs Ontario is a very successful program and Jobs Ontario doesn't go—

Mr O'Neil: My comments weren't—

Mr Hayes: Excuse me, Madam Chair—

The Chair: No, no, no.

Mr Hayes: Jobs Ontario does not, when they give funding to the private sector or the public sector, whatever, they don't go in and decide whether that municipality or whether one of the ministries should exempt them from paying taxes. I just wanted to make that very clear.

Mr O'Neil: Madam Chair, can I just make clarification on that?

The Chair: Briefly, Mr O'Neil, very briefly.

Mr O'Neil: My comments weren't meant to be political. This group has a problem and I think Jobs Ontario may have to come in to part of the solution to try and help them get a solution on this, but they weren't meant to be political.

The Chair: Thank you. Ms Sprague, we'd like to then move to the motion after your comments.

Ms Sprague: I just want to make one further comment about Mr Jamison's comment about the fallout of what could happen in other municipalities, I guess in terms of tax revenues. You have to remember when you're considering this that to qualify for a private member's bill you must own your own building. Non-profit, as you can see, we can't come up with \$26,000 to pay our taxes so non-profit child care centres would never generate enough revenue to build their own child care centre, so we must only get this money from the province in lieu of a grant.

Now unless Jobs Ontario is going to be dishing out a

whole lot more money over the next little while for other child care buildings to be developed, then that's not going to have a big, large ramification on other municipalities in this province. We do agree to defer this.

The Chair: At this moment we have the motion before us made by Mr Perruzza that Bill Pr128 be deferred until a later date. The members have obviously had some good discussion.

All those in favour, please indicate. There are obviously none opposed. At this point since everyone who was here raised their hand in favour, therefore the motion is carried.

The motion to defer is carried, so I hope that we will see you in the not-too-distant future when you've had a chance to work with the different stakeholders to bring this to some good resolution.

Mr Perruzza: Madam Chair, I just want to get into the record and into Hansard my view that if this does come back, and for the school board and for the municipalities who are going to be contacted, as a government member I would support a bill that keeps the day care functional and being able to provide that service locally, so that they're very clear on that. Thank you.

The Chair: The Hansard will obviously be used by these good representatives in their discussion with the board and the municipality. At this point before members shuffle their papers to go, we have actually a couple of other pieces of business. At this point I would thank the two presenters, Mr Lewis and Ms Sprague. We will then

carry on some other business which is not part of your bill at this point.

Ms Sprague: Thank you very much.

The Chair: Members, we have other business on your yellow sheet and it relates to Bill Pr96, An Act to revive the Hamilton and Region Arts Council, and Bill Pr114, An Act respecting Hamilton Community Foundation. I believe Mr Hayes has two motions to bring forward. These bills were in fact passed, but these are some additional motions to deal with their issue.

Mr Hayes: I move that the committee recommend that the fees and actual cost of printing at all stages and in the annual statutes be remitted on Bill Pr96, An Act to revive the Hamilton and Region Arts Council.

The Chair: All members have heard the motion in relation to Bill Pr96. All those in favour, please signify. Are there any opposed? None opposed. That was passed unanimously.

Mr Hayes: I move that the committee recommend that the fees and actual cost of printing at all stages and in the annual statutes be remitted on Bill Pr114, An Act respecting Hamilton Community Foundation.

The Chair: Again, all members have heard the motion. All those in favour, please signify. Any opposed? Seeing none again, passed unanimously.

I thank all members for their good comments and their time and we are hereby adjourned.

The committee adjourned at 1123.

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Substitutions present / Membres remplaçants présents:

Jamison, Norm (Norfolk ND) for Mrs MacKinnon

Also taking part / Autres participants et participantes:

Ministry of Municipal Affairs:

Hayes, Pat, parliamentary assistant to the minister

Skinner, Ron, manager, taxation policy

Riley, Mike, legal counsel, Ministry of Education and Training

Clerk / Greffière: Grannum, Tonia

Staff / Personnel: Klein, Susan A., legislative counsel

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
REGULATIONS AND PRIVATE BILLS

Wednesday 23 November 1994

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS
ET DES PROJETS DE LOI PRIVÉS

Mercredi 23 novembre 1994

*The committee met at 1010 in committee room 1.*ONTARIO PROFESSIONAL PLANNERS
INSTITUTE ACT, 1994

Consideration of Bill Pr129, An Act respecting the Ontario Professional Planners Institute.

The Vice-Chair (Mrs Ellen MacKinnon): The first bill we'll deal with is Bill Pr129. The MPP who is sponsoring this bill is Tony Martin. Would you please bring your people to the table, Tony, and introduce them.

Mr Tony Martin (Sault Ste Marie): I'd like to introduce the people in a general way, and then perhaps ask them to give you their names themselves and their positions so that you're more clear exactly who they are.

This group, the professional planners of Ontario, have been meeting around this piece of legislation for quite some time now, have done a considerable amount of work trying to put together the package that you have in front of you, have consulted widely back and forth over a number of years with the ministries concerned and with other organizations and individuals in the province.

I think we have a package here that reflects that consultation and reflects a sensitivity to some of the issues that were raised and I think as well has in it the essence of what this group needs to both do its work in a professional way and recognize the need out there in our community for some confidence in this organization and its members to do a job that will not be in any way a danger to the public.

Having said that, I would ask the two members to introduce themselves and their positions.

Mr Philip Wong: My name is Philip Wong. I'm president of the Ontario Professional Planners Institute, OPPI for short. Mr Tony Usher is the past president of OPPI. In fact he has been quite instrumental in bringing the private bill before you today. I would like to make a brief couple of comments laying out the background on this bill, and then we're prepared to answer questions you may have.

The OPPI is a non-profit Ontario corporation granted letters patent in 1986. We have about 2,100 active practising planners in the province, of which about 58%, about two thirds, work in the public sector, such as the different provincial ministries, municipal governments and public bodies, school boards, and even police departments; 36% are in the private sector either as consultants or in the development industry, and the rest of them work in academia in the recognized universities in Ontario. There are seven of them offering recognized planning programs.

OPPI is the Ontario affiliate of the Canadian Institute of Planners and, therefore, OPPI members are the Ontario members of CIP. From the national perspective, other provincial pieces of legislation which recognize the planning profession exist in four other provinces: Saskatchewan, British Columbia, Alberta and Quebec. So there are other provinces going back to 1963, when Saskatchewan was the first province which provided legislation similar to what we are seeking here that recognizes the planning profession.

To give you some background, the roots of planning in Canada go back all the way to the 18th century with surveyors and military engineers, and planning really began to emerge as a recognizable, distinct profession in 1910. CIP was founded in 1919, but it fell victim to the Great Depression. It was revived in the early 1950s, and in 1970 four affiliates, chapters of CIP, were set up in Ontario, and in 1989 the four chapters decided to merge into what we have today, OPPI.

The professional planning community is one of the oldest and largest professions in Ontario, in our opinion, without statutory recognition. Our research indicates that since 1946 there have been 29 private acts passed in Ontario which recognize various professional groups, such as, in the last couple of years, building officials in 1992, property standards officers in 1992 again, and also landscape architects.

Planning, as defined in subsection 3(2) of the bill, is an activity explicitly or implicitly required by many Ontario statutes, of which the most notable obviously would be the Planning Act, and understandably the major reform proposed under Bill 163 expands the scope of planners' responsibility. Other acts include the Municipal Act, the Community Economic Development Act, the Environmental Assessment Act and the Ontario Heritage Act, just to name a few.

The purposes of our bill are twofold: One is to grant exclusive use of the title "Registered Professional Planner" and the initials RPP to full and retired members of OPPI. There would be around 1,200 full members and about 50 retired members; in other words, if the bill were passed, about 1,250 members of our institute would be given this "Registered Professional Planner" title and also using the initials RPP in their daily profession. The second purpose of this act would be to enable OPPI to govern and also to discipline its members as a self-governing body.

The enactment of a self-governing association of professional planners with explicit membership requirements and standards can only enhance the public interest, given

the considerable public stake in planning as evidenced by this extensive statutory recognition. The government's commitment to planning reform and its introduction of Bill 163 speaks clearly to the importance of the practice of planning.

All planners, whether in the private sector or in the public, are obliged by OPPI's professional code of conduct to recognize the primacy of public interest. By requiring OPPI to prescribe membership requirements to maintain a code of conduct and discipline its members for infringement of the code, while maintaining an open and inclusive professional association, the bill will help to guarantee the following to all the participants and the beneficiaries of planning: municipalities, other planning authorities, developers and the public at large, and practising planners. It's open to all who meet the requirements without regard to the province or country which they come from or are educated.

In the preparation of this bill, we have consulted, as Mr Martin said, extensively with our members. In total, over the past three or four years we have sent six direct letters to our members and also we published up to eight times in our journal, which is our publication, about the ongoing progress of the bill. In other words, our members have been extensively consulted.

As well, we have consulted with the affected ministries, notably the Ministry of Municipal Affairs. In a letter to the legislative counsel on our act, the Ontario Professional Planners Institute Act, 1994, the deputy minister stated:

"The OPPI as an organization has been sought out by the ministry for advice on planning policy matters and has contributed to our consultative efforts on planning reform. Our experience with the organization has been very positive. The Ministry of Municipal Affairs has no objection to the proposed OPPI Act, 1994."

That concludes my remarks, Madam Chairman, and we are prepared to answer questions the committee will have.

The Vice-Chair: Thank you, sir. Has your colleague some remarks?

Mr Tony Usher: No, I don't have any further remarks. We'll deal with questions, Madam Chair.

The Vice-Chair: Fine. Thank you. Questions? We'll start with—

Mr Pat Hayes (Essex-Kent): Ask if there's anybody here opposed to the bill.

The Vice-Chair: Oh. Is there anyone here who is—I'm sorry. You'll have to excuse me. The Chair has got herself out in the traffic there someplace and I'm trying to do her job.

Mr Hugh O'Neil (Quinte): You're doing a great job.

The Vice-Chair: Thank you. Is there anybody present—

Mr Ron Hansen (Lincoln): Put the hammer down.

The Vice-Chair: Well, come up here and I'll show you where I'll put it down. I told you I was feeling better.

Are there any parties in the room who are objecting to this bill? I understand that there are letters of objection.

The people who are responsible for them have not been able to make it in. If you'll just give us a moment, please, I think the clerk is busy.

1020

Mr O'Neil: Madam Chair, I wonder if in the meantime, while we're waiting for that, if we could have any remarks that the parliamentary assistant might have to make about whether or not they're in favour of or against the bill.

The Vice-Chair: Would you like to make any remarks, Tony? I'm sorry. Oh, you're the parliamentary assistant, Mr Hayes. It's time I got back to work.

Mr Hayes: The Ministry of Municipal Affairs has no objections to the proposed piece of legislation.

Mr O'Neil: Madam Chair, I wonder, since there are no objections and you've dealt with these letters that have come in and the issues they raised and you still find no objection to the bill—

The Vice-Chair: I'll have to wait till the clerk comes back about these particular letters.

Mr O'Neil: I would ask that of the parliamentary assistant, if he would deal with it.

Mr Hayes: I was just informed that there were some people who were coming here and they did have objections. What the objections are, I do not know, because I have not seen them. Possibly these are them coming now.

Mr Tony Ruprecht (Parkdale): I'm just wondering, since our colleague had a major problem in getting here this morning and the government has not put the sanders out on the highway—

Interjection: On one highway.

Mr Ruprecht: On one highway at least. Sorry about that.

The Vice-Chair: I don't think this committee has anything to do with that.

Mr Ruprecht: I'll get around to it in a minute. I'm just wondering if what we might want to consider is to stand this item down for a few minutes.

The Vice-Chair: I'll wait for the clerk to give me some guidance on this, please.

Mr Ruprecht: I thought you take guidance from this committee. What happened to the Chair?

The Vice-Chair: It's road conditions. It's called ice.

Have the members had an opportunity to read the letters that have been given to you?

Mr O'Neil: For the people who are here, I know it would likely be a disappointment, but if there are some people who because of the weather were not able to be here, I wonder too, as was suggested by Mr Ruprecht, whether this bill should be set down.

Mr Ruprecht: For a few minutes.

The Vice-Chair: They're just not going to make it, period, because of weather. There'll have to be a motion if you wish to—go ahead, Mr Hodgson.

Mr Chris Hodgson (Victoria-Haliburton): I'd make a motion that we stand this down to the next meeting. If I could find a seconder for that, I'd appreciate it.

The Vice-Chair: You don't need a seconder for that.

Mr Hodgson: Good.

The Vice-Chair: Is there any debate on that motion?

Mr Martin: I think that would be unfortunate in that we've come a long way down the road on this to arrive here today, and to put it off any further just denies the province all the benefits of this act. I believe very sincerely, because I've worked with this group over the last couple of years on this bill, that we have done everything within our power to respond to and answer any of the concerns that have been raised. We've met with these people, the institute itself has met with the folks and there really isn't, we feel, anything further we can do to respond to or answer any of the issues that will be raised at this point.

We think we have a package here that is a good package and will stand the test of time. I would suggest very strongly to the members of the committee that we move on this today and get it done, as opposed to putting it off to another time and, by that, bumping something else and we go on and on. That's my suggestion.

Mr Larry O'Connor (Durham-York): I believe that the presenters here have probably come some distance to make this presentation and it would probably be a huge inconvenience for them to continue to come back every week until we have an opportunity to hear from further objectors.

I think that the objections as presented don't seem to present any huge problems but would look to the parliamentary assistant for some guidance on this. I think the representatives of the association here may want to directly respond to the objections as presented in the correspondence before the committee, but I don't think we should really be standing it down at this point.

Maybe we should ask the presenters to take a look at the correspondence that was presented to the committee and maybe respond to it.

Mr Ron Eddy (Brant-Haldimand): I suppose there's always the chance that the weather could be even worse in one week's time than it is today. I don't get into forecasting the weather, of course. I've learned not to do that, and many other things.

The letter of objection and the motion of course is to stand this down. But in speaking to that, and further to the objection, because that's why do have the motion, I'd like an opinion, if counsel would be prepared to give me an opinion, on the third paragraph. I think that's the crux of the item. It says, "This bill will unjustly demote all practising planners who are not full members of OPPI to a non-professional status."

I disagree with that statement completely, because I don't think it will. If you're a professional planner, you're a professional planner and you can substantiate that with documentation. The fact that you are or are not a member of the association really wouldn't affect your being a profession and would not affect, in my opinion, your participation in OMB hearings and other things.

I wonder if we could have, I would think it's almost a legal opinion, on that particular matter. I can see where people should have the option of being a member or not being a member of the association, and indeed have the

letters, as set out, following their name if they are a member and qualify to have the said letters. But I really can't see that it will affect their professional status in any way. Is there someone who could respond to that, please? Because I think that's the crux of the matter.

Mr Hayes: There is a section in there, and it's on page 3, subsection 9(5), and the heading of it is "Right to practise unaffected." It states in there that:

"This act does not affect or interfere with the right of any person who is not a full member or a retired member of the institute to describe himself or herself as a planner or professional planner or to practise as a planner or professional planner or to work in the field of planning."

I think what you are saying, Mr Eddy, is correct.

Mr Eddy: Yes. I would expect the presenters agree with that completely, do they? Thank you. In view of that, because that is the objection and because of the subsection 9(5), I would be prepared to proceed with it. I don't believe the request from the writer of the letter is that it be stood down.

Interjection.

Mr Eddy: Oh, "be deferred to your next meeting." It is a request, sorry.

1030

Mr Anthony Perruzza (Downsview): I appreciate that Mr Martin is eager to proceed with it and I appreciate some of the comments that have been made by some of the other committee members, but I have to tell you, in reading this—and I haven't finished reading it because it was just distributed—there are a number of other issues that are of considerable substance, not just the third paragraph here which Mr Eddy wants to speak to.

My only reservation is that I think this committee, and we are an arm of the Legislature, above all else needs to proceed in a way that speaks to a process of fairness. I don't think you can do that without clearly giving the other people an opportunity, whether they're stuck or not stuck today in not being able to be here. That's second nature, and I think that any judicial body would at least on a one-time basis say, "Let's give these people an opportunity to show up before we deal with an issue that obviously is of major concern to them."

I recognize that in our haste we'd be inclined to proceed as a committee. But I think we're slightly more than a committee. We're in many ways very much a judicial body, and when we make a decision, it's a judicial decision. In this case, quite obviously, it would be and we would be seen to be proceeding in a way that didn't give all parties at least an opportunity to address the committee. I would have very strong reservations in doing that.

The least that we could do, Madam Chair and all of us, in coming to understand some of the subtle issues in both these communications, is stand this particular item down at least to the end of today's agenda, which gives people an opportunity to reflect on some of these things a little more closely. At that time we can make a determination whether or not we should proceed today or perhaps put it off to another week and give the other folks an opportunity to appear before the committee. I would move that

we at least stand this down to the end of the agenda.

The Vice-Chair: We already have a motion on the floor. I can't take another motion just now.

Mr Perruzza: This is different. I would move an amendment that this issue be stood down at least to the end of today's agenda before we proceed with its disposition one way or the other.

The Vice-Chair: Are you making an amendment to the original motion? Okay.

Mr Hansen: I know the weather's bad out there, but if the case is that the weather's bad, then the ones from Windsor are here and other presenters. Being the Chair of other committees, when presenters were coming forward and weren't able to make it, sometimes we would delay from going on on that particular morning. I'd have to say that most likely with two more weeks of us sitting, we've got a long list of Pr bills, and it's unfair to wind up putting somebody out later on to bring this group back when we can deal with it, because the letters are here.

I've read the letters, I see what the objectors are saying, and it's not that they didn't have a voice at this committee. They are here in black and white. If it was to the point it was going to be a verbal presentation, an oral presentation and they were to be here, that would be a disadvantage to these people because they weren't able to. But since we do have it in front of us, I think we should make decisions on what the objectors have written.

I've sat on many bills on stable funding—Mr Eddy also was on that bill—and there were objectors, but there were some people that didn't want to join. When for religious reasons they did not have to join, they would be able to get exempt but still had to wind up paying the fee and refunding it. What I'm taking a look at here, I see this as a very important bill because we are giving the power to the people who are the planners to look after themselves rather than have—we hear all the time—Big Brother coming down to say, "Hey, you're doing it wrong." Within themselves, they were governing their own bodies. I say that we move ahead with this—I will not support the motion that's on the floor—and wind up going ahead and getting this bill passed.

The Vice-Chair: The next people I had on the list to speak were the sponsors. Would they mind if I let Mr Cooper go and then I'll give you time at the end? All right. Go ahead, Mike.

Mr Mike Cooper (Kitchener-Wilmot): I was contacted by some of the people in Kitchener on this bill. I noticed that the letters that came in today don't come from the individuals I was talking to, but I think they have some concerns and I think if we proceed with this bill that I might be able to ask the questions and find out from the presenters here exactly what the answers are that may settle down some of the grievances that they have against this bill. If we get the answers today, it might be fine.

There was no indication that they were going to come and present here or object to that. They just wanted some questions answered. Some of the questions are in the body of the text, as Mr Perruzza said earlier, but I think

if we could ask the questions from the presenters that it might settle down some of the concerns that are out there.

The Vice-Chair: Do you have the questions to ask yourself? Would the sponsors like to speak to these objections, please.

Mr Usher: Procedurally, we don't have any problem with Mr Perruzza's amendment. If the committee ends up simply deferring this matter to the end of today's agenda, then far be it from us to comment on that. If that loses and the motion on the floor is to defer the matter until next week, then obviously we have some comments on that.

Mr Eddy: I'm pleased to support the amendment simply because we are dealing with the bill out of order. It's the last on the list and we're dealing with it first. On that basis, I think the amendment is very much in order. I'm pleased to support the amendment. I think that's good procedure personally—to the end of the meeting.

The Vice-Chair: Are we ready to vote on Mr Perruzza's amendment to the original motion? Are you all ready to vote?

Mr Ruprecht: What was it again?

The Vice-Chair: The amended motion reads that Bill 129 be stood down to the end of the day. All those in favour? Object? The motion, as amended, carried.

We'll likely see you in a little while. Thank you very much for your patience.

1040

DURHAM REGIONAL POLICE ASSOCIATION INC. ACT, 1994

Consideration of Bill Pr135, An Act to revive Durham Regional Police Association Inc.

The Vice-Chair: We'll now deal with Bill Pr135. Mr O'Connor, you are the sponsoring member; if you have some comments, and introduce the party with you, please.

Mr O'Connor: It's a pleasure to be here before this committee today and to be here in support of Pr135, An Act to revive Durham Regional Police Association. It would probably be in order to recognize Brian Curtis, who isn't here today but sends his regrets as the chair of the new police association, as it's about to be revived, from his recent election.

The person that you have on your agenda isn't in fact the person beside me. Barrie Chercover is beside me and has graciously been able to help fill in for the solicitor whose name you have before you, who unfortunately couldn't make it due to the weather, so we do have somebody here representing the legal counsel for Durham police association. This is one of the more common, I guess, types of bills that you have come before you, in a sense, to revive a corporation and that's what we have before us. So the person we have before us as legal counsel is Barry Chercover.

The Vice-Chair: Would you please go ahead with your presentation, Mr Chercover.

Mr Barrie Chercover: There's not really very much to say. The Durham police association, like many of the other police association corporations, is a union recognized under the Police Services Act. Unlike the unions

that come under the Labour Relations Act, they carry on through a corporate facility, but like many other unions, they're not as businesslike as they ought to be in the way they carry on their affairs and apparently, I guess it's seven years ago now through the automatic termination of their corporation, the corporation officially ceased to exist. They didn't even realize that. They've been carrying on. They're a very active organization.

The original applicant was Terry Ryan, who wasn't the president when the affairs were out of order and, as you've learned, Brian Curtis is the new president. Their counsel, Mr Bolotenko, has certainly been alerted to their negligence, which is all this was, and I suspect it will encourage them to keep their affairs in order and up to date in the future. This is simply a request to revitalize an organization which has continued but without proper form. Unless there are some questions, I think that simply explains what this is about.

The Vice-Chair: Thank you very much. Are there questions from the members?

Mr Hansen: The government will support this. We don't see any reason that we shouldn't, and I'd say that my brother's a member of the Niagara Regional Police Association and it's more than just what you were explaining here. They have family events and everything for the police officers and their wives and children, so it's a worthwhile organization to support, and I will support this.

The Vice-Chair: Thank you. Anybody else? Are there any members of the audience who have any questions about this? Are the members ready to vote? Does the government have anything to say or the parliamentary assistant have any comments, please?

Mr Hayes: No, we have no comments to make on this and no objections on this bill.

The Vice-Chair: Thank you very much. Are the members ready to vote?

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall the bill be reported to the House? Agreed.

TOWNSHIP OF EAST LUTHER AND THE VILLAGE OF GRAND VALLEY ACT, 1994

Consideration of Bill Pr132, An Act respecting the Township of East Luther and the Village of Grand Valley.

The Vice-Chair: The next order of business is Bill Pr132. The sponsoring member is Mr David Tilson.

Mr David Tilson (Dufferin-Peel): I would like to introduce the delegation. As the name of the bill expresses, the purpose of this bill is to amalgamate two municipalities. I have with me Jane Wilson, who's the administrator of both municipalities, I guess, the current municipalities, East Luther and the village of Grand Valley. Pat Kalapaca is the current reeve of the village of Grand Valley, and William Church is the solicitor

involved in this matter. I don't know whether anyone has any questions. It's self-explanatory. Mr Church will have a few comments to make.

Mr William Church: This is a bill which is to amalgamate the Hydro Electric Commission of Grand Valley. What'll happen is that the hydro-electric commission of the corporation of the village of Grand Valley will become a separate hydro-electric commission. It'll continue in the amalgamated municipalities of East Luther and Grand Valley.

There is one amendment, I understand, that legislative counsel wanted in section 6 and that was simply to use the same wording as appears in section 3. Instead of referring to the corporation of the village of Grand Valley, she wanted to refer to the amalgamated municipality, so there is that one minor housekeeping change.

The purpose is simply to make sure that there's a continuation of the village of Grand Valley hydro-electric commission within the limits of the village of Grand Valley and that in the rural parts of the new municipality Ontario Hydro will continue. That's the sole purpose of the act.

I should add one thing, and that is that Mrs Kalapaca is also the warden of the county of Dufferin, in addition to being the reeve of the village of Grand Valley.

The Vice-Chair: Very good. I've got that situation at home in Lambton county. Do members have any questions?

Mr Church: I guess someone's going to have to move an amendment in keeping—

The Vice-Chair: We'll do that in due time. Anybody over here? Are there any comments?

Mr Eddy: I'll defer to the parliamentary assistant, if you wish to have him first.

Mr Hayes: We will support this with the condition that this amendment be put in place and be carried. Outside of that, the Ministry of Municipal Affairs does not object; however, that amendment is very important to deal with section 6.

Ms Christel Haeck (St Catharines-Brock): I was interested in hearing Mr Hayes's remarks, and obviously he has clarified the Ministry of Municipal Affairs' position. I believe we all have a copy of the motion in front of us for amending section 6, so I would suggest we move forward.

Mr Hansen: I was just going to say most likely Mr Tilson has worked with them and knows the situation and if there were any objections to what's actually going on here, he most likely would have made some comments or told his colleagues, so I support it.

Mr Tilson: A commonsense bill.

Mr Cooper: Now you've lost us.

Mr Eddy: I appreciate the comment of Mr Tilson and certainly agree that it does make good sense, this matter, but I have a question. First of all, the village of Grand Valley presently has an elected PUC, is that correct, responsible for hydro and what other services?

Mr Church: Just hydro.

Mr Eddy: Oh, just hydro, but it's called a PUC. Is

that correct, or what is the official name?

Mr Church: I think they're a hydro-electric commission, but I'm not certain of that.

Mr Eddy: Maybe I'll ask someone on staff to clarify that. I see the advantage of the action, of course.

Interjection.

Mr Eddy: It is a hydro commission. I see, okay. An elected hydro commission and it's going to be continue to be a hydro-electric commission for the same urban area, Grand Valley.

You had asked whether there were any other comments, and there are no other letters or comments so—

The Vice-Chair: Are there any other comments?

Mr Leo Jordan (Lanark-Renfrew): I was just wanting some clarification; I'm sure Mr Tilson will have it there. With the amendment coming to the Power Corporation Act, how will that affect this private bill, in that we're amending the Power Corporation Act to allow extension of municipalities in the rural areas? It hasn't been put forward in the House, but it will be, I understand.

Interjection.

Mr Jordan: Yes. Will that affect it?

Mr Tilson: I don't think it will affect it. It's essentially doing the same thing, I believe. You're talking about the government bill that's currently before the House.

Mr Jordan: Yes.

Mr Tilson: I don't know that Mr Hayes could correct me or not, but I believe it's doing the same thing.

The Vice-Chair: Do you have any remarks on that?

Mr Hayes: No.

Mr Eddy: One further thing then: If it indeed is a hydro-electric commission presently, and it's going to continue to be for the same area, why in section 3 does it say "the electrical power service area of the public utilities commission of the amalgamated municipality"? I think that's incorrect. It's a technical thing. I agree, it would state that, but why does it use that terminology in section 3 if it's a hydro-electric commission?

The Vice-Chair: Could the sponsor speak to that, please?

Mr Eddy: I think the staff who helped draft the bill should speak to that.

The Vice-Chair: Would you like to speak to that?

Mr Paul Murray: Paul Murray, counsel with the Ministry of Municipal Affairs. A hydro-electric commission is a public utilities commission for the purposes of the Public Utilities Act, so that's why the phrase is used.

Mr Eddy: Thank you. That clears it up.

The Vice-Chair: Are there no more questions? Are the members ready to vote? Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

Shall section 5 carry? Carried.

Mr Gordon Mills (Durham East): I have an amendment for section 6.

The Vice-Chair: Would you please read your amendment.

Mr Mills: I move that section 6 of the bill be amended by striking out "the Hydro Electric Commission of Grand Valley" in the second and third lines and substituting "the public utilities commission of the amalgamated municipality." The explanation has already been given.

The Vice-Chair: All those in favour of the amendment? Anybody against?

Shall section 6, as amended, carry? Carried.

Shall section 7 carry? Carried.

Shall section 8 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill, as amended, carry? Agreed.

Shall the bill be reported to the House? Agreed.

Mr Church: Thank you.

The Vice-Chair: You're welcome. Thank you very much.

Mr Hansen: Can I just call for a five-minute recess?

The Vice-Chair: Is everybody in agreement? Five minutes; that's it. They need a smoke.

The committee recessed from 1055 to 1059.

CITY OF WINDSOR ACT (RE CLEARY ESTATE), 1993

Consideration of Bill Pr51, An Act respecting the City of Windsor and the Will of Edmund Anderson Cleary.

The Chair (Ms Christel Haeck): Our next order of business will be to deal with Bill Pr51, An Act respecting the City of Windsor and the Will of Edmund Anderson Cleary. We're going to deviate slightly from procedure. What that will entail, just to inform everyone of what the situation is, Mr Lessard, as usual will introduce the applicants, the applicants will then be able to make their opening remarks, but at that point the clerk has to read a report relating to the will of Mr Cleary from the Commissioners of Estate Bills. The report will be read into the record, so that will be the deviation from our normal procedure.

Mr Wayne Lessard (Windsor-Walkerville): Thank you, Madam Chair. It's good to see that you did make it into the chair, notwithstanding the adverse weather conditions.

With me this morning is Mr Al Kellerman, the solicitor from the city of Windsor. Tom Lynd is the clerk from the city of Windsor, and Sergio Grando is the general manager of the Cleary International Centre in Windsor, which is one of the matters that's being dealt with by this bill. The other is the Cleary Guest House, which is located in Dieppe Gardens. Both of these facilities were established at the bequest of Edmund Cleary in the 1950s, but because of changing circumstances the city has now found itself in a position where it wants to pass bylaws to deal with both of these facilities.

I should bring to your attention there is going to be one minor amendment to subsection 1(1) that I will ask Mr Kellerman to address in his remarks. I have a pamph-

let with respect to the Cleary International Centre that I will send around, and I also have a picture of the guest house in Dieppe Gardens for people to see because I know that the image you might have of a guest house in the gardens is a bit different than what this picture might illustrate. Those are my remarks.

The Chair: Do the applicants have any opening remarks at this point?

Mr Al Kellerman: I think briefly, Madam Chairman, it might assist the committee to review the background of this bill which is before you.

The testator, Edmund Anderson Cleary, died June 10, 1955, and he left a bequest of \$20,000 for the construction of what is now known as the Cleary Guest House in Dieppe park, which is the major riverfront park in the city of Windsor. He also left, by way of a codicil, the balance of his estate, which amounted to approximately \$1.5 million, for the construction of the Cleary Auditorium. The city at the time also contributed the same amount of money, and so the Cleary Auditorium was opened in 1959.

Mr Cleary, in his will, left desires for "a committee of trustees appointed by city council consisting of representative business and professional persons of the city of Windsor who have shown a keen interest in the city and one of whom shall be an executive officer of the Canada Trust Co." His wishes were incorporated in the City of Windsor Act, 1957, section 7, which provided that, "Notwithstanding any other act, the council of the corporation is authorized to pass bylaws placing the construction and management of the civic auditorium in the city of Windsor in the hands of a committee of trustees appointed by council and constituted in accordance with" the will of Mr Cleary, and that was necessary at the time in order to carry out the intent of the testator.

You have in your bill before you that this section will no longer be necessary, and section 2 of the bill provides for the repealing of that section 7 of the 1957 act.

What subsequently happened was that the Cleary was greatly expanded by city council at the beginning of 1990 by the expenditure of some \$33 million, and the committee of trustees, who had carried on as the board of management in essence for that building, felt by November 1991 they were no longer capable of dealing with a vastly expanded auditorium and they requested by resolution that the city of Windsor "assume Cleary board responsibilities and direct management and control of the Cleary International Centre for an interim period of 12 months and conduct a re-evaluation and review of the governance of the Cleary during this time period."

Subsequently, a year later, the Cleary board trustees, again by resolution, requested a permanent management committee, which the city has introduced, and that legal steps be taken to relieve the board of trustees of their responsibility under the will. That is why we are here today.

1110

What council has done is, of course, directed the application before the Legislature, and by resolution the council has provided for a permanent management

committee—Mr Grando, on my right, is the general manager of that—and by council resolution it had agreed to indemnify the trustees of the former board of management. Council also asked that the bill be amended to permit the leasing of the Cleary Guest House. Council is awaiting the enactment of this legislation, if that is the wish of the Legislature, in order to provide for a committee, call it an advisory committee, to assist the general manager in the operation of the Cleary to carry out in some way the intent of the original testator.

There is also an amendment, which motion is before you, and it would seem that for the benefit of legislative draftsmanship that the proposal for leasing in whole or part the Cleary auditorium ought to consist of a separate clause in subsection 1(1) of the bill.

The Chair: Thank you, Mr Kellerman. At this point I would ask if there are any additional remarks from the other applicants before us.

Mr Lessard: I just want to indicate that there was a substantial contribution by the province as well in the expansion of the Cleary International Centre.

The Chair: It's quite a handsome facility, I must admit, and I think we're all probably envious of the kind of facility that you have at your disposal. At this point I will turn to the clerk and ask her to read the report of the commissioners.

Clerk of the Committee (Ms Tonia Grannum): In the matter of Bill Pr51, 1993, An Act respecting the City of Windsor and the Will of Edmund Anderson Cleary:

"Report:

"The Commissioners of Estate Bills are pleased to report that inquiries were duly made by them of the solicitor for the city of Windsor, of the Canada Trust Co, sole executor of the estate of Edmund Anderson Cleary and of Mrs Bianca Deluca, chairperson of the committee of trustees appointed by counsel of the city of Windsor under the terms of the Edmund Anderson Cleary will; that responses and representations were received from all of them; and that it now appears that the concerns of the committee of trustees as to indemnification and continuance in an advisory capacity have been satisfied by undertakings of the city of Windsor and its solicitor; and that based upon the foregoing, and presuming the allegations contained in the preamble be proven to the satisfaction of the House, it is reasonable for the bill to pass.

"In the course of consideration, the city of Windsor by resolution authorized its solicitor to seek an amendment to Bill Pr51 to permit the leasing, in whole or in part, of the Cleary Guest House referred to in Bill Pr51. The Commissioners of Estate Bills are further pleased to report that if Bill Pr51 should be amended to add the words 'the leasing in whole or in part' between the words 'directing' and 'demolition' in paragraph 1(1)(a) of said Bill Pr51, it is reasonable for the bill, as so amended, to pass.

"Dated this third day of October, 1994.

"Signed, Mr Justice R.J. Flinn, Commissioner, and Mr Justice J.H. Brockenshire, Commissioner."

The Chair: Thank you, Ms Grannum. At this point I would request if there are any other interested parties

who wish to come forward to speak to this matter. Seeing none, I would turn to the parliamentary assistant to provide the input from any other ministries.

Mr Hayes: No, the Ministry of Municipal Affairs does not object to this. However, it would be necessary to put that amendment in in 1(1)(a).

The Chair: I have Mr Hansen as someone who has a question or comment.

Mr Hansen: Maybe more of a comment. Mr Lessard had sent me a memo to my office yesterday. I was very concerned at that time about a guest house in a park that the city was going to destroy. He said, "It's not exactly what you think is a guest house," and I said, "Do you think you can bring a picture of it?" After taking a look at the picture, I don't have any problem supporting this bill.

I understand also that Madam Chair is one for heritage, which a lot of cities have lost, and it looked like in the memo that this was a heritage building that was coming down. But after taking a look at it, I don't have a problem supporting this bill, and I have the amendment, Madam Chair, when you're ready for subsection 1(1).

The Chair: Are there any additional questions or comments on behalf of the members? Seeing none, I would ask if members are ready to vote? Agreed?

Mr Hansen: I move that subsection 1(1) of the bill be amended by adding the following clause:

"(c) for leasing, in whole or in part, the Cleary Guest House."

The Chair: All members have heard the motion. All those in favour, please signify. Any opposed? Seeing none, that motion carries.

Shall section 1, as amended, carry? Carried.

Shall sections 2 through 4 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Gentlemen, I hope it was a productive morning for you. Thank you very much. Apparently they don't have snow. The rest of us weren't quite so lucky. I want to thank Mrs MacKinnon for having acted as Chair this morning. It was a rather interesting drive in and I appreciate the fact that other members pitched in to make sure that things moved forward.

J.G. TAYLOR COMMUNITY CENTRE INC. ACT, 1994

Consideration of Bill Pr117, An Act respecting The J.G. Taylor Community Centre Inc.

The Chair: Our next order of business is Bill Pr117, and I would ask Mr Hope as sponsor to come forward with the applicant. This is relating to an act respecting the J.G. Taylor Community Centre Inc. Mr Hope, perhaps you would like to make some opening remarks and introduce your applicant.

Mr Randy R. Hope (Chatham-Kent): It's my pleasure to be here this morning once again to bring forward Bill Pr117 dealing with the J.G. Taylor Community Centre. Accompanying me is Brian Knott, who is

the solicitor-clerk for the city of Chatham. Unfortunately, I can't compliment as much as what Windsor can about all the money they got and how they bumped the roster in making sure Windsor comes before Chatham, but we get accustomed to it after a while. Windsor seems to get quite a bit.

We're here today to try to get the committee to agree in bringing forward this legislation and supporting a community group which is establishing a centre that is very important to a significant amount of people in our community, and we're asking your support through this legislation. But I do understand there are concerns from the Ministry of Education and Training's position, as I have had an opportunity to review Hansard. So I will now turn it over to the solicitor-clerk for the city of Chatham for comments also.

Mr Brian Knott: I am Brian Knott, solicitor-clerk for the city of Chatham. I am also acting on behalf of J.G. Taylor Community Centre Inc. We have received this morning an objection from the Ministry of Municipal Affairs. I understand there may be also some objections from the Ministry of Education, and it is our hope that this matter could be put over for a one-week time. We would then hopefully be able to resolve some of the issues and bring the matter back before the committee.

1120

Mr Hope: Madam Chair, before I get into that, I believe it's very important for us, once again, to hear from the ministries' perspective about their actual opposition, because as I review Hansard of June 22, 1994, Municipal Affairs had no problem, but the Ministry of Education and Training had expressed the view that the school board should have the right to consent to tax exemption as it affects school taxes.

Reading the Hansard and understanding what has been said to me today, in particular dealing with this bill, I think it's important for us. They're saying it's now a policy of the Ministry of Education and Training. There are probably other communities that wish to bring forward a similar bill of this nature. I think for the public record, it's important that it be on the public docket and that we're able to address from the public docket exactly what changes need to be incorporated in this bill so that we can make this project a reality.

I must say that even though we're not Windsor, there was adequate funding given by the province to this project, for which the province showed its clear support by—I believe it was \$2.4 million that was allocated to this project. It's very important. It does allow a significant black history which will be incorporated in it. It also does allow training. It's not only recreation; it also deals with underprivileged children and adults, making sure their life standards and life skills improve.

I would really appreciate hearing from the parliamentary assistant who has direction from the Ministry of Municipal Affairs and direction from Education on their particular concerns dealing with this bill.

The Chair: Before I turn to the parliamentary assistant, I have two pieces of business to take care of. All members I believe have received copies of a letter from

the Kent County Board of Education. As well, I know the clerk has just circulated a document from the Ministry of Municipal Affairs which will address some of the comments that Mr Hope has just made.

Mr Hope: Madam Chair, before you continue, the letter that you were making reference to from the school board, we do not have a copy and we would appreciate a copy of that letter.

Mr Hayes: We have a copy here.

Mr Hope: I heard it was being distributed.

The Chair: I believe it's in the package for the members, but the clerk will see about getting a copy.

Mr Hope: That letter is dated November 21, and we didn't have the privilege of getting that letter.

The Chair: That's fine.

Mr Hansen: I don't have the letter either.

The Chair: The clerk is going to make sure that a copy gets to you, Mr Hope, and to the solicitor.

The other thing I must ask is if there are any other interested parties who wish to come forward on this matter at this time. Seeing none, I would now turn to Mr Hayes to give the ministry perspective.

Mr Hayes: Actually, the Ministry of Municipal Affairs at this present time does not support it. However, if the request is to defer it and come back with a different view from one of the ministries, we would go along with the deferral, but from what we have in front of us now, we would not support it.

Mr O'Neil: This is a Jobs Ontario grant that has gone to the community centre?

Mr Hope: No. The money that was allocated to this project was twofold, one through the Ministry of Culture, Tourism and Recreation. When AgriCorp was not established in the city of Chatham, there was a \$100-million fund set aside that was also put in place for those affected communities. This was topped up by that fund to put it to \$2.4 million. It was a combination of two grants that were brought in to support the two community groups that have established this project, but not under Jobs Ontario Community Action.

Mr O'Neil: I don't know what similarities there would be in the problem we dealt with last week on the child care centre, where we had to turn down that legislation because of the tax-free position that organization asked for. Are there similarities in this particular application; in other words, where we are asking these people to do something today to correct that problem, yet last week we did or didn't?

The Chair: I think in fact there are some similarities, but if you look at particularly the criteria the ministry has sent down, you will see that the last paragraph as well provides some edification in that regard, but I will also ask Mr Hayes to give you some additional clarification.

Mr Hayes: There are—and the members are quite aware—certain criteria that have to be met and this particular application does not meet all the criteria. The school board is objecting to the bill, and of course 46% of the property tax is for education purposes there. And also the Ministry of Finance does not support the bill in

its present form because it feels that inequities arise from exemptions granted through private bills which place an additional burden on the remaining taxpayers and the permanent erosion of the assessment base.

I think some of these bills that come forward were—and I know other members of the committee have discussed this in the past—that, I think when a city decides that they want any kind of a charitable organization or recreation facility to have tax exemptions, one of the easiest ways would be to have the municipality actually write the tax off or give them grants. That's the feeling that I have and of course then they wouldn't have to go through all of this procedure that we're having here today.

However, if they want to defer this and meet the criteria that are laid out—and at that point I guess we might not have any objections to it. It would be up to the committee.

Mr Mills: I spoke at length about a similar issue last week. I think the school board of trustees are elected to represent the people that elected them, and in keeping with that decision that we made last week, and in keeping with the comments that I made last week, I would make a motion that we defer this for one week to allow these people to make an opportunity to get the necessary endorsement that's required.

Mr Hansen: Can we just defer it?

Mr Mills: Or just defer it. Yes.

Mr Hansen: You want to go one week?

Mr Mills: One week. That's the motion.

The Chair: The motion is that we defer consideration of Bill Pr117 for one week. All members in favour, please—

Interjection.

The Chair: I'm sorry. You want to speak on the motion? Okay. Mr Eddy.

Mr Hansen: He's most likely going to say the same thing I am.

Mr Eddy: Well, it's the one week. I'd rather leave it till the applicant is prepared to come back, but is one week fine? That's what's being asked for. Fine. That answers my question.

The Chair: The clerk just advised me you will be last on the agenda because in fact we have a full docket for next week. Okay? That's to your satisfaction, Mr Hansen?

Mr Hansen: Maybe just a question. If it comes next week or they're not prepared to come forward next week, they do not have the answer, what happens? Does the bill die?

The Chair: I think Mr Hope has some comments to make here. Maybe that will give you some clarification and otherwise we'll turn to the clerk. Mr Hope, do you have some answers for Mr Hansen?

Mr Hope: It's our intent to have an answer on this whole issue of dealing with allowing school boards to have this type of control on municipal tax. We're hoping that through the consultations we're able to create, we'll have an answer for June. The only question I have is

deferring without a definite period of time. As you remember, back on June 22 we made a motion to defer and it's taken this long to get back on the docket one more time. So I don't want it deferred longer than one week. We will make the wheels of progress turn on this issue.

Mr Hansen: Good luck.

The Chair: Mr Hansen, does that answer—

Mr Hansen: I just said good luck.

The Chair: Good luck, okay. Mrs MacKinnon.

Mrs Ellen MacKinnon (Lambton): I don't have any problem with deferring this at all. What I have a problem with, having worked on municipal government, is that one of the criteria laid down here is that the exemption should be granted through a municipal bylaw as opposed to being exempted by the direct bill.

My knowledge of municipal government is, it'll take more than a week to get a municipal bylaw through, and I can see Mr Eddy smiling, and I know why he's smiling because he understands too. I would like to know, is that possible?

The Chair: Mr Knott, did you want to address that?

Mr Knott: The intent of the deferral is not to have the bylaw passed—we of course need the legislation in place that would allow us the authority to pass such a bylaw; the request for the deferral is for us to have an opportunity to speak with the school board and also the respective ministries to come to some agreement on either modification to the bill or to have the school board consent to the bill as it's presently framed. But certainly the intent is not to have a bylaw actually passed. We really don't have that authority right now.

1130

Mrs MacKinnon: Excuse me. I must be reading this letter wrong. I thought this letter lays out these four criteria to be done before this could happen. Do I misunderstand that in this letter?

Mr Hayes: I think, just to clarify, that they do meet all the criteria except the part about getting support from the school board. That's where it's at.

Mrs MacKinnon: Oh, all right.

The Chair: We have Mr Hodgson on the list.

Mr Hodgson: I'm not going to speak directly to the motion because, if the motion passes, then it's the end of discussion.

The Chair: The order of business is you have to speak on the motion.

Mr Hodgson: I realize that. Could I have a piece of information delivered after we vote on the motion, depending on how it goes?

The Chair: Yes. You'll be on the list if it doesn't pass. At this point all members have heard the motion. Are members prepared to vote? Agreed.

Mrs MacKinnon: Read the motion, please.

The Chair: The motion is to defer consideration of Bill Pr117 for one week, and that's at the request of the applicant.

All those in favour, please signify. Any opposed? Seeing none, the motion is carried.

If there's any information that you need from the ministry staff—

Mr Hodgson: That's right, and before next week's meeting, how will this affect the education grants if this is taken off the assessment?

The Chair: Is there someone here who can respond to that quickly? Just a quick comment.

Mr Mike Riley: My name's Mike Riley. I'm counsel with the Ministry of Education and Training. Our ministry does have some concerns about this, more from the point of view of the possibility of exporting the tax burden from one municipality to another within the school board jurisdiction and also from one school board to the rest of the school boards in the province.

There is, I think, a potential grant impact in that at the end of the year this type of exemption is picked up in the same way as supplementary taxes and a portion of that may be recognized within our grant structure in the subsequent year. So there is a possibility that that may occur. We have staff from the ministry who might want to add to that today, but if that's substantially correct, then, yes, that would be the case.

Mr Hodgson: So this burden may not get to the school board if every building in the municipality is taken off the assessment.

Mr Riley: Yes, and also to the other municipalities within the school board jurisdiction. So there's a double exporting.

Mr O'Neil: If that's the case, why would the Ministry of Municipal Affairs be agreeable with just an okay from the school board? In other words, the school board says, "Okay, we agree to it," therefore, that burden of taxation is shifted. Is there not a conflict between the Ministry of Education and the Ministry of Municipal Affairs?

Mr Hayes: No, I don't think there's any conflict. I think what we have to understand here is that if you have other ministries like the Ministry of Education, or if you have school boards or if you have the Ministry of Finance or other ministries that object, we have to take all those objections into consideration and—

Mr O'Neil: Make a decision.

Mr Hayes: —make a decision, yes. We have made a decision because there are some objections or one objection to this, and that was the idea of the deferral, to clear up that or get the support from the objector to reverse their stand on the issue.

Mr O'Neil: Let me ask this.

The Chair: We've got several other people and we still have another bill to take care of.

Mr O'Neil: I understand, but I also have a question to ask which I'd like to have answered, if I may.

The Chair: Mr Eddy and Mr Hodgson also wanted to get in and, as I say, we also have the deferred consideration of Bill Pr129.

Mr O'Neil: Time should be of no essence when we are dealing with questions that must be answered.

The Chair: I'm just making members aware of what's on the docket.

Mr O'Neil: I appreciate that. If I may proceed, so we don't use up too much of the time, again what you're saying to the group is, go back and get the approval from the board of education. Is that right? To get them to approve of this, give the okay.

But then we have the Ministry of Education saying the board maybe shouldn't do this because if the board gives up this taxation, the taxation is going to be shifted over to a neighbouring municipality. I see there is a conflict between the two and I know the problem you have, you want to get it approved, but I think we should have some sort of coordination or agreement between the ministries.

Mr Hayes: I think what has already been agreed on—of course, maybe not openly in the committee—but they will be getting together, I believe with Mr Knott, and talking to the ministry, to people from the ministries and try to work it out so everybody will be satisfied. So there will be certain things that the ministry would have to and will be very—

Mr O'Neil: So the project can go ahead.

Mr Hayes: So they can work these things out, come back to the committee and hopefully it goes through.

Mr O'Neil: Great.

Mr Hodgson: The question I'm trying to get at here is along the same lines as what Mr O'Neil is talking about. If they want to give a grant or exempt them from taxation for their local area, they can have the municipality do it or the school board. They hand that money back to them or they exempt them. But it doesn't count against the ability to pay. The education grants are based on a per student per diem and then they take into account the ability to pay with different school boards across the province to give a level playing field.

I can go back to the school boards in my area and have a number of buildings taken off their ability to pay to increase their provincial grant for that area. That's a totally different question than what's laid out by Municipal Affairs in this requirement.

The Chair: Mr Hodgson, I want to interrupt at this point just for the fact that what you're saying, in fact, is obviously a very personal—

Mr Hodgson: I need an answer for next week.

The Chair: No. I would say that at this point I am going to cut you off—

Mr Hodgson: That's fine.

The Chair: —because you realized beforehand it was a straight informational thing. You're obviously getting into a debate when we've already voted on the deferral and we should be moving to another matter.

If there is some part of this that you wish to discuss with any of the technical staff that's here with the Ministry of Education to clarify your point, and when you come back for next week, you're free to do so. But at this point I am going to stand this issue down, it will occur then for further debate next week, and I'm going to call Bill 129 to come forward because we're getting into a debate on an issue that we're going to discuss—

Mr Hodgson: No, I just need the information, Madam Chair.

The Chair: We started off that way but that's not how your conversation was going.

Mr Hodgson: It was an information question.

The Chair: I'm sorry, Mr Hodgson, but at this point, the Chair has ruled and we're calling our next item of business and any—

Interjection.

The Chair: I'm not getting into the debate because that's in fact how we were going. The ministry people are here. You can ask them a question and you can build your case for the debate that will further occur next week. So we will now in fact—

Mr O'Neil: Madam Chair.

The Chair: Mr O'Neil, I am moving forward on Bill 129.

Mr O'Neil: You don't want us to question your ruling.

The Chair: You don't have that opportunity.

Mr O'Neil: But I have a simple question.

The Chair: No. Mr O'Neil, at this point I think that the people who have come all of the way from the Sault, who have been deferred once already, and we have to continue their discussion, I think they have some priority in this.

1140

The kind of debate that was ensuing, and we are now continuing, I think is inappropriate at this time. These gentlemen can give you some additional information should you wish to have it. If you want to be already listed for next week, we can do that as far as your discussion, but at this point I am going to welcome—

Mr O'Neil: Can I do this on a point a privilege?

The Chair: You may, but you may be surprised at the ruling.

Mr O'Neil: You're prolonging with what you're saying; you're taking up time. All I'm saying is that I think what was asked for here is it would be nice, before we meet next week, if the ministry staff could supply to the members of the committee some background on this so that we can come in here and discuss it from a more—

The Chair: That is a valid request and I indicated they're here—

Mr O'Neil: That's all I want.

The Chair: —they've already been identified and they can do so. I just don't think we need to take more time here at this time.

Mr O'Neil: That's all we're asking for. It's understood then that they will supply that for us at the members' request.

The Chair: I think Mr Riley has probably made note of that and he will make sure that that gets to the members.

Mr Eddy: I agree with the request.

The Chair: Thank you, Mr Eddy.

ONTARIO PROFESSIONAL PLANNERS
INSTITUTE ACT, 1994

Continuing consideration of Bill Pr129, An Act respecting the Ontario Professional Planners Institute.

The Chair: My apologies to the folks from the Sault that it has taken just a little longer to get back to your

bill, Bill Pr129, and I'm going to ask the clerk at this point, since I was not here, I'm given to understand we have heard from a number of the presenters. Is that correct, Ms Grannum?

Clerk of the Committee: Yes, Mr Wong—

The Chair: We've heard from Mr Wong.

Clerk of the Committee: —and Mr Mark Dorfman is now here.

The Chair: Mr Dorfman is now here. All right. Mr Dorfman, did you have some comments to make?

Mr Mark Dorfman: No, I don't. I'm here to respond to questions from members of the committee.

The Chair: All members, if we could have some order please, there's a buzz in the room and it does affect the Chair's hearing and I know some other people have hearing problems as well, so I would ask people to be quiet.

At this point I would like to advise members that we have several letters that have been received over the morning expressing concerns about this bill, so I hope you will avail yourselves of some time to review their comments. Are you aware of the concerns that have been raised about this, Mr Wong?

Mr Wong: Yes, Madam Chairman. I would like to ask Mr Usher, our past president, to address the concerns raised in those letters to the committee.

The Chair: And you are again, sir?

Mr Usher: Tony Usher. I'm the past president of the institute.

The Chair: Did you have any comments to make at this time?

Mr Usher: Yes. If it's your wish, Madam Chair, I'd like to try to respond to some of the more significant of the concerns that are raised in the letters that you have before you.

The Chair: I think this is the appropriate time.

Mr Usher: Okay. I'd just like to reiterate, first of all, as Mr Wong indicated in his opening remarks, that we consulted very extensively with our members. There is an insinuation, I think, in at least one of the letters that you have before you that we did not. We have about 2,100 practising members. They have received numerous communications over the five years in which we have been developing this bill, six letters which we would be happy to place before the committee that were sent to all of our practising members, numerous references in our Ontario Planning Journal that comes out every two months.

At the end of the day, we have, to the best of our calculation, four members of our institute who are on record with the committee as objecting to the bill. We have probably a couple of hundred members who, when we were in difficulties with the Ministry of Municipal Affairs about a year and a half ago, wrote letters to members of this Legislature advocating that our difficulties be resolved, which they subsequently were, with the government.

I'm not dismissing the concerns, we want to address them, but I want to put it in that perspective. You have in addition the same order of magnitude of letters from

non-members and they are equally worthy of being responded to.

The objective of this bill is to elevate the planning profession for the benefit of everybody: full members of our institute, provisional members of our institute and non-member planners, of whom there are many and all of whom are equally welcome to belong to our institute and equally welcome and encouraged to proceed along the path to full membership. But nobody is expected, nobody is required, nobody is intended to be required to become a member of our institute. We still see a benefit of this bill as being to elevate our profession and its practice for the benefit of everybody. We are the only house there is for all the planners in Ontario.

There are three particular issues that seem to us that come out of these letters. The first is the question of our membership requirements. There are insinuations in some of the letters about the exclusivity of our institute. We have doubled our membership since 1986. We have put a tremendous amount of effort into making our membership requirements as inclusive and as open and as equivalent to people from all backgrounds as possible, and I'm going to come back to that more specifically.

In our opinion, and some of this relates to the particular nature of our profession, we probably have about the most open membership requirements of any of the 29, I believe it was, professions which have had private acts passed by this Legislature. All of the people who have raised concerns have the same opportunity to either proceed to full membership if they are provisional members of our institute or to become members of our institute if they are not members at the present time.

Mr Code, in his letter, suggests, "One would not even remotely aspire"—this is on page 2, paragraph 3 of Mr Code's letter—"to the profession, short of having earned a degree in planning which, with an appropriate apprenticeship, should automatically lead to full institute membership."

I particularly took note of this, because I do not have a degree in planning, like hundreds of members of our institute, and I've served as president for the last two years, until last month. Close to half of our incoming provisional members do not have planning degrees. This really relates to the uniqueness of our profession.

Most of the professions which have obtained private acts, as well as the professions that have public acts, such as engineers, architects, the health disciplines and so on, have a situation where you go to university, you go to a professional school, you get a degree in architecture or forestry or landscape architecture or what have you, and that is the sine qua non, you have to have that to become a member of the professional institute and to practise in that field.

Planning is unique. There are, as Mr Wong indicated, seven very good planning programs in this province, but there are many, many people who always have and always will practise in the planning field who do not get planning degrees. They may get geography degrees, they may get urban studies degrees, they may get environmental studies degrees etc. There is no such thing as a single educational route to membership, so the whole

objective of our membership requirements is to provide one consistent standard that is as fair as possible to all people from all backgrounds.

Mr Bensason, also in his letter, indicates on page 2, paragraph 2, "The ability for many provisional members of OPPI to obtain full membership status has become more difficult in recent years." Mr Bensason has identified himself in the past as being concerned about this bill. He wrote a letter in July 1993 to Mr Ferguson, his MPP, expressing some concerns. Although he is a provisional member of our institute, he never communicated directly with us, but he copied the letter to OPPI.

I wrote a letter back to Mr Ferguson with a copy to Mr Bensason, attempting to address all of the concerns raised in his letter, one of which was this—and I clearly laid out in the letter and I'm not going to bore the committee with it—that in fact this is not true. It depends who you are. If you have a planning degree the requirements are tighter than they were 10 years ago. If you have a non-planning degree, the requirements are more open and flexible than they were 10 years ago.

What we have tried to do is to redress historic imbalances between these two types of educational backgrounds to make our institute as open as possible on the same terms, a level playing field for everybody coming in, and we have very close to a level playing field at the present time.

So it depends who you are. It has become more difficult for some and easier for others.

Mr Bensason also refers in the same paragraph to the difficulties of our written examination and the failure rate of the written examination. We have a total of five different options to meet the requirement that Mr Bensason refers to, and I should point out that the pass rate in our written examination in 1994 was 77%.

That's the issue of our membership requirements. The second general issue that is raised in these letters is the question of infringement. Now, members of the committee, you have, as you're well aware, in subsection 9(5) of the bill the clause says, "This act does not affect or interfere with the right of any person who is not a full member or a retired member of the institute to describe himself or herself as a planner or a professional planner or to practise as a planner or a professional planner or to work in the field of planning."

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Mr Bensason in his letter provides a précis of subsection 9(5) on page 1 of his letter, paragraph 3, and he says this is grossly misleading. I personally, I guess, feel this is almost an affront to the committee to suggest that if this is put into the law it would become misleading. This is, always has been and always will be the intent of this legislation, that it does not infringe and should not infringe on the right to practise or the right to earn a livelihood of any person who is either a provisional member of our institute or a non-member of our institute.

Mr Bensason indicates in his letter in the next paragraph that through our lobbying efforts, increasingly employers are requiring that candidates for planning positions be full members of the institute. This is com-

pletely untrue. The institute does not lobby and does not advocate in this regard.

To provide a little explanation for the committee, the requirements of employers are employers' business and they are all over the map. The province, which, as I think members of the committee are very well aware, is trying to have a very open and inclusive public service, does not have any requirements of this nature for employment at the provincial level. Some municipalities have chosen to use various criteria, like that they would like people to be a full member of the institute or to be a provisional member of the institute and progressing towards full membership. That's their decision. We don't go around and ask anybody to do that. We don't go around and ask anybody not to have those requirements. We don't believe that's our business to do so.

The final point that we'd like to address is the matter of grandparenting, which is alluded to in some of the letters. Particularly what people are referring to is the Ontario Association of Landscape Architects. The OALA bill has a unique provision in it which allowed for people who were practising as landscape architects in the previous 12 months to become members of that institute. This bill was passed in 1984.

There are two things that are totally different about the OALA situation. The first one was that the OALA was seeking and obtained the protection of the term "landscape architect," which is normally associated with getting a landscape architecture degree and then you become a landscape architect. In other words, there were all kinds of people out there who called themselves landscape architects because they had a landscape architecture degree and who were not members of the OALA. So there was an understandable concern that these people, who had just as much right to call themselves landscape architects, could possibly be infringed if there wasn't some grandparenting. But that's because there's only one type of degree to become a landscape architect. You've got it or you don't.

The second thing that happened with the OALA was a situation that has no relevance to us. There were a lot of people at that time who were out there, landscape gardeners, landscape contractors, the kind of people who will fix up your garden but don't have any particular professional qualifications. Some of these people had styled themselves or felt they should style themselves as landscape architects. They instituted a major lobbying effort to get included in a grandparenting clause in this bill. It was imposed by the Legislature on the OALA against the OALA's wishes. The OALA chose to accept it; many, many, many of their members are very sorry that this ever happened. But it bears no resemblance. We don't have any planning contractors out there who make plans in the back seat of a truck.

We aren't asking for a title that comes with a degree, that you either get the degree or you don't have that degree, and if you have that degree, people in the public style you by that title. We're asking for the title "Registered Professional Planner." There's nobody in creation right now in Ontario who styles themselves by that title. People style themselves as planners, urban planners,

community planners, what have you. Nobody calls themselves a "Registered Professional Planner" because it doesn't exist. We're asking for the creation of a new title which in no way infringes on all the existing titles that people call themselves by.

I have probably said enough. We'd be happy to answer more specific questions. I don't know whether my colleagues wish to add anything.

The Chair: I believe, Mr Perruzza, you want to move a motion. Is that correct?

Mr Perruzza: Yes, I do.

The Chair: Before you do that, since I was not here for the first round, would members object if I put a question on the record and, Mr Perruzza, then your motion would come next? Or is there some—

Interjection.

The Chair: No. He's already raised his hand.

Mr Eddy: There is in fact a motion before us from the previous meeting.

The Chair: Which is? I'm sorry.

Mr Eddy: Mr Hodgson moved that this bill be deferred to—

Interjection: We voted on it.

Mr Eddy: We voted on the amendment. Did we vote on the motion, as amended?

Mr Hodgson: We voted on that.

Mr Eddy: Okay. It was yours, sorry.

Interjections.

The Chair: It's been moved to the end of the meeting so in fact that part of the motion has been complied with. Before we have an additional motion, are members in agreement that I can ask a question?

Mr Hodgson: Time is of the essence.

The Chair: Yes, I know. I will ask it quickly. I want to, on behalf of a number of constituents in my area, express some concerns, and it's about planning in general and how they feel, shall we say, recommendations get muddled and what the community may in fact wish doesn't seem to get before council and then there are some changes made.

How are you setting up your standards for education? You're basically looking at trying to establish some standardization, to establish yourself as the registered professional planner. How are you coming up to the standardization of education across the province?

Mr Wong: We have a process of recognizing various planning degrees in the province. They go through a rigorous, pretty comprehensive recognition process. In other words, if you were belonging to a planning program at Ryerson or U of T or in Waterloo, the students there are part of a recognized planning program. But having said that, if you have a general BA degree in geography, you are also welcomed into the membership through another route. As Mr Usher said earlier on, there are various ways and means—or even someone without a planning degree, through work experience—

The Chair: Excuse me. Gentlemen, your voices are carrying and I can't fully understand Mr Wong.

Mr Wong: —could also become a member of our OPPI. What we have attempted to do since 1986 is really try to come up with a comprehensive and fair way to deal with every kind of applicant to come through our institute. We have a provisional membership requirement which people would have to go through, through an interview to become a provisional member and then they have to sit through a routine exam that we call examination B, followed by a verbal interview before they are admitted to become full members.

That process is an ongoing process. As I said, many of our current full members since 1986 have chosen, out of their own choice, to come through that process. They have become our successful members.

The Chair: I appreciate what you're trying to do and I should put the fact I'm a librarian and a member of the Ontario Library Association. It took a number of years for the accreditation of a process of looking at courses and programs to work and to provide a standardization of education for librarians across North America.

It seems to me that in some respects that is what you are trying to establish. But so far the inclusive nature of your process leads me to believe that possibly some of the educational institutions have not necessarily fully embraced what you are attempting to do. Or am I misunderstanding the fact that when you say someone who has a BA who may be working in planning somewhere within a municipality can join your organization but may not in fact have achieved the same scale of educational criteria as someone who has gone through a planning program in another institution? How are you working to bring that to a standardization?

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Mr Dorfman: Perhaps very briefly, Madam Chair, I can address that particular question. All of the universities in Ontario that have courses and degrees with regard to planning or environmental planning are recognized by the institute. The students in those particular programs, many of them become student members, and once they graduate and gain their experience, then they become full members of the institute, which is their choice.

However, notwithstanding all of that, experience, as in practising planning, be it in the public sector or the private sector, counts for a lot in terms of recognition and in terms of qualifying to become a member of the institute.

So it's not just the education base, but certainly experience and the quality of that experience gained, either in municipalities or provincial government or in private sector, becomes extremely important and probably, in many respects, is just as important as any degree. So if someone has a BA in geography from the University of Guelph or Brock University or wherever, they certainly—and there are many cases where people have worked in the process as planners, gained the experience, that experience is recognized, and that is the base upon which they become members of the institute.

A lot of our members, probably 50% of our members, come through the experience process. So work is import-

ant and practice is extremely important. Obviously, you learn through your experience as well, and that's important and we encourage that.

The Chair: I won't take up any more time. I have a range of questions, but at this point I will defer to others, I believe Mr Eddy and then Mr Hayes.

Mr Eddy: It's just a very short point. The concern that was expressed to me by one person was a concern about the relationship between municipal councils and municipal planners, and that this act could affect that relationship in that the term "professional planner" would mean that the opinion of the planner, which at the present time I believe councils could take or leave, so to speak, would be changed. Would you comment on that? I don't see the possibility of change because of that, but I'd like just a viewpoint on that, if you would.

Mr Dorfman: Those planners who are members of our institute who practise in municipalities are retained by municipalities. They have a working relationship. The interesting thing is that many other municipal employees have their own private acts, for example, the clerks and treasurers, the building officials, the tax collectors, the property standards officers. They all have private acts, but the difference there is that they are all municipal employees.

In our profession, our members and provisional members practise in all levels of government as well. So the relationships are the same, and it's not going to change. This piece of legislation will not change that relationship between employer and employee.

The Chair: Mr Perruzza, your motion will be read into the record when we get to section 7. Did you have any other comments at this point before we—

Mr Perruzza: Yes. Before I do that, I just want to take a minute of the committee's time and reflect on this out loud.

It started off this morning as being a situation where, "This doesn't change anything; this doesn't create a second class of planners, no, no, no, it'll all be fine." Well, I say to you, wrong, wrong, wrong. Because quite obviously, what's been explained—I'm so glad that the applicant took a rather long time to explain it—is that the boom is being lowered and a second class of planners is being created if you approve the bill as is.

If I can borrow a word from my colleague to the left, when he said that this is not a situation of Big Brother coming down and creating a second class of planners—this is a situation of creating an organization which is going to be able to create rules for itself and govern itself, and I say to you that that is essentially wrong as well, because Big Brother is coming in and saying to a whole bunch of people—and I can think of one person quite vividly in my mind, my Grade 10 geography teacher, who in retrospect knew more about geography and planning than most planners whom I've encountered in my professional life. I happened to sit as a municipal councillor in Canada's fourth-largest city and I had dealings with a great many planners from a great many backgrounds, and I can tell you that my Grade 10 geography teacher in retrospect I would have handed her the

keys to the planning department, because she had a vision of planning that was unparalleled and second to none.

That person, quite frankly, through this bill and the passage of this bill, would be relegated to a second-class planner by not being able to use the title "registered" before their professional standing and before their professional designation, and I say that that's wrong.

So the amendment which I propose to make here this morning is one which would simply say, "Let's allow for a grandfathering clause in the bill," which says that if you've been out there and you've been working in the field—and quite frankly it's motherhood; it's nothing more than that—and you've developed the accreditation for yourself, then you will be given a 12-month period within which to join, and we have precedent in that regard. Legislative counsel advises me that six or seven years ago a similar case was dealt with by this Legislative Assembly where landscape architects were treated in quite the same way, and that's all I ask the committee to consider.

If that amendment should happen to fail, then what I would suggest, Madam Speaker, is that a motion of deferral for a week come forward, as Mr Hodgson proposed earlier, so that the other side be given an opportunity to make representation before this committee, because quite frankly we've heard a one-sided, lopsided story before us here today.

I think the other side should be given at least the same weight before the committee. So I would take a two-pronged approach in dealing with this matter.

Mr Hodgson: I just want to express my support for the motion by Mr Perruzza. We don't always agree on our grandfathering clauses, but in this one we do and for the reasons that he stated, I just want to put on record my support.

Mr Hansen: I will not support Mr Perruzza's amendment. Maybe Mr Perruzza at the time that the answers were given to the letters of objection that were being read out and answers given by the gentleman there—he had already explained about landscapers. It's a totally different area and you can't call a landscaper the same as a planner—

Mr Perruzza: Why's that?

Mr Hansen: They're not the same. They're different identities, so you can't wind up wrapping it all together and say, "Well, do it the same for them as we did for them," because it's totally different. And you know, Mr Perruzza, your geography teacher would be able to become a member of this group if you take a look at her portfolio whether it came up to standards to get those initials after, so she isn't excluded to become a member or could become an associate member until she received and brought her total package up to say, "Hey, I've done that and that," in her portfolio. No one's excluded. So I speak against this motion or the amendment.

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The Chair: We have a couple of other people who wish to speak, Mr Hayes and Mr Eddy, and I would like to get a comment from Mr Wong before we turn to the vote. So Mr Hayes?

Mr Hayes: In the essence of saving time, Madam Chair, I will just say that we do not support this amendment, and that's it.

Mr O'Neil: Will you tell us why?

Mr Hayes: Tell you why? First of all, I think Mr Hansen explained it quite thoroughly there. The other thing is, what this is really saying is, whether you're qualified or not, you should automatically become a member of this organization. To me, that's really not the thing.

Interjection.

The Chair: No, no, Mr Perruzza. No, no, no. Order, please.

Interjection.

The Chair: No, no, Mr Perruzza. Mr Eddy.

Mr Hayes: Let me just finish, please, Madam Chair.

The Chair: Oh, I'm sorry. I thought you had finished.

Mr Hayes: One of the things is that the ministry did have a problem with this right at the beginning and that issue was addressed. The concerns were that it was confirmed now that being a member of the OPPI does not provide credentials that exclude recognition of other practising planners in Ontario. That was the concern we had, and that concern has been addressed.

Mr Eddy: I am pleased that Mr Hayes has spoken on this matter because I was going to ask him, being as a member of the NDP caucus proposed the amendment, did the government support it?

Mr Hayes: An individual on the committee has brought an amendment.

Mr Eddy: Yes. But I wanted your viewpoint of the government to see whether or not you did. I agree that subsection 9(5) is a very important clause and very, very broad. It certainly meets, I think, a lot of the concern that would have been there, great concern if that clause had not been there.

The other point I was going to make, I did want the applicant to respond to it as well.

The Chair: I would at this point turn to the applicant, and specifically Mr Wong as president, if you wish to put some other comments relating to the concept that Mr Perruzza has put forward.

Mr Wong: The OPPI in fact has already talked about this situation, both the counsel and also our membership, and there were specific instructions that this clause cannot be accepted. As a matter of fact, if this clause were to be included, our instruction is to withdraw the entire bill.

The Chair: I'm sorry, sir?

Mr Wong: Our instruction is to withdraw the entire bill.

The Chair: Okay. So members understand that—

Mr Wong: Can I also explain why we're doing that? We have, since 1986, come up with a very comprehensive commitment to our membership standards. By allowing this grandfather clause, it would be grossly unfair to those members in our institute right now to have gone through the process and be accepted members and now allow people who of their own choice chose not to

enter and get involved with us, to become grandfathered. I think we have to answer to them and I cannot answer to them if that were the case.

Secondly, in the name of public interest, the purpose of the bill is to raise the public profile of planning by ourselves being self-governing and the membership requirements. By allowing the grandfather clause, with all due respect, it will simply dilute the standard of membership because we don't know who they are, how they practise and we'll be going into a lot of wrangling regarding their substantial experience. I think we'll go into that. So on those remarks, our comment is it's not acceptable.

The Chair: Mr Mills is our final speaker and then I will move to the vote.

Mr Mills: I've sat here patiently for quite a long time listening to all the comments and what everybody said, including the presentation that was made. I found it also basically easy to understand. I haven't commented on it until this, and I'm sure that if I can understand the thrust of it, everyone else can here. I'm quite prepared to not vote in favour of the motion and maybe we can call the question and deal with this immediately.

Mr Hodgson: We're going there anyway.

Mr Eddy: Mr Mills has been very patient.

Mr Mills: Yes, very patient. Very, very patient.

The Chair: And Mr Mills is hoping for lunch. Anyway, at this point, I would ask members to indicate if they are prepared to vote. Yes? At this point, I would call—

Mr Hodgson: Could we have a recorded vote?

The Chair: You wish a recorded vote? I'm going to call sections 1 through 6. All those in favour, please indicate.

Mr O'Neil: Agreed.

The Chair: Mr Hodgson asked for a recorded vote?

Mr Hayes: No. He just wanted it on that one departure.

Mr Hodgson: I want it on the final section.

The Chair: On that section, okay.

Interjections.

The Chair: Just a moment, please. So sections 1 through 6 have been carried.

Section 7. Section 7.1, as Mr Perruzza proposes, is a new clause. So we are going to go first to section 7. All those members who are in favour of section 7, please indicate.

Mr Mills: The way it is.

The Chair: Yes, section 7; 7.1 is the new section. All those in favour of section 7? Agreed.

Mrs MacKinnon: Excuse me, has this been debated?

The Chair: Yes. We're now going to move to the motion by Mr—it's not section 7. We're moving to the new section now, which is 7.1, the new section which is Mr Perruzza's amendment as he proposes it. Mr Perruzza, would you please read it into the record?

Mr Perruzza: I move that the bill be amended by

adding the following section:

“Other planners

“7.1 Despite section 7, the institute shall admit as a full member any person who applies to become a full member and who on the date this act was passed or, within the 12-month period preceding that date,”—and this is the key, Madam Chair—“substantially earned his or her living as a professional planner.”

The Chair: We have had the motion read. I would ask all those in favour, please signify.

Mr Hansen: Recorded vote.

The Chair: Recorded vote.

Ayes

Hodgson, Perruzza.

The Chair: All those opposed, please indicate.

Nays

Eddy, Fletcher, Hansen, Hayes, MacKinnon, Mills, O'Neil (Quinte).

The Chair: The amendment is defeated.

I will now move on to sections 8 through 12. All those in favour, please indicate. Opposed? Seeing none, shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Mr Hodgson: Madam Chair, a recorded vote.

The Chair: I'm sorry. You had indicated that, and my apologies for moving too quickly.

All those in favour of the bill, please signify and the clerk will read out the names.

Ayes

Eddy, Fletcher, Hansen, Hayes, MacKinnon, Mills, O'Neil (Quinte).

The Chair: All those opposed, please signify.

Nays

Hodgson, Perruzza.

The Chair: Shall I report the bill to the House? Any opposed? Seeing none, that is carried.

I want to thank you for some interesting discussion, and I hope you're pleased with the turnout.

We have a bit of discussion relating to Mr Cooper's bill which he sponsored, which is relating to Bill Pr120.

Interjections.

The Chair: Excuse me. We are still in session for just one additional piece of business. The city of Kitchener has indicated that, “Because of the terrible weather conditions this day here in Kitchener and to Toronto, we were unable this morning to get out of Kitchener as”—

Clerk of the Committee: That's a different bill.

Mrs MacKinnon: We had that.

The Chair: I'm sorry. It's my mistake. I'm actually human. They couldn't make it because of the weather, and we will make every accommodation to slot them at the first available time. Is that to your satisfaction, Mr Cooper?

Mr Cooper: Agreed.

Mr Eddy: Madam Chairman, I disagree that it's the weather. It's the preparation for the weather, and these roads could have been in much better shape if the people who are responsible were out there. They've had a month to get ready, and that's why it's—

Mr Mills: Get a life.

Mr Eddy: Well, I—

The Chair: I call the meeting adjourned.

The committee adjourned at 1220.

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- *Mills, Gordon (Durham East/-Est ND)
- *O'Neil, Hugh P. (Quinte L)
- *Perruzza, Anthony (Downsview ND)
- *Ruprecht, Tony (Parkdale L)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Cooper, Mike (Kitchener-Wilmot ND) for Ms Haeck

Also taking part / Autres participants et participantes:

Ministry of Municipal Affairs:

Hayes, Pat, parliamentary assistant to the minister

Murray, Paul, legal counsel

Riley, Mike, legal counsel, Ministry of Education and Training

Clerk / Greffière: Grannum, Tonia

Staff / Personnel: Mifsud, Lucinda, legislative counsel



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Assemblée législative de l'Ontario

Troisième session, 35^e législature

Official Report of Debates (Hansard)

Wednesday 30 November 1994

Journal des débats (Hansard)

Mercredi 30 novembre 1994

Standing committee on
regulations and private bills

Comité permanent des
règlements et des projets
de loi privés

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
REGULATIONS AND PRIVATE BILLS

Wednesday 30 November 1994

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS
ET DES PROJETS DE LOI PRIVÉS

Mercredi 30 novembre 1994

The committee met at 0910 in committee room 1.

The Chair (Ms Christel Haeck): I'd like to call the regular meeting of the standing committee on regulations and private bills to order. I believe, Mr Mills, you had a request regarding the agenda.

Mr Gordon Mills (Durham East): Yes, Madam Chair. I'd like to suggest, in view of the fact that the folks are here from the Simcoe County Board of Education, that we proceed with that bill first in the absence of Mr Winninger. I'd hope Mr Winninger would come second, because much of the discussion around that piece of legislation will also be repeated in Mr Wessinger's bill. Hopefully, if we listen to the presentation from Mr Wessinger, Mr Winninger will arrive and then we can carry right on and save a lot of time.

The Chair: Actually, just to point out to all members, Mr Chester and his legal firm are acting for both boards of education, so I think there's some sense to what you say.

Mr Mills: For continuity.

The Chair: At this point is anybody objecting to that? No.

SIMCOE COUNTY
BOARD OF EDUCATION ACT, 1994

Consideration of Bill Pr153, An Act respecting the Simcoe County Board of Education.

The Chair: Mr Wessinger, would you like to bring your applicant forward. The normal procedure in this committee is that, as sponsor, you get to make a few opening remarks, introduce the applicant and then the applicant makes a presentation. You may be seated.

Mr Paul Wessinger (Simcoe Centre): I forget, being a lawyer.

The Chair: I'm not the judge.

Mr Wessinger: You always stand when you're a lawyer. It's strange. You just can't escape from that background.

I am sponsoring Bill Pr153, An Act respecting the Simcoe County Board of Education. Appearing today is Mr Simon Chester from the firm of McMillan Binch, who represents the Simcoe County Board of Education. The purpose of the bill is to deem that Ontario Municipal Board approval has been given to certain capital projects.

By way of background, under the former law all capital projects of boards of education, if they required the issuing of debentures, required OMB approval. That law came into effect some time in 1994. Under the new law, if boards of education meet the financial criteria,

they can issue debentures without the approval of the Ontario Municipal Board.

The Simcoe County Board of Education, since they were going to issue debentures after the new legislation came into effect, didn't believe they needed OMB approval so they didn't apply for it. Unfortunately, you can't get Ontario Municipal Board approval retroactively, so the only way to allow the board to issue the debentures is for an act to be passed deeming OMB approval to have been given. So that's the purpose of the act.

Mr Chester is here to answer any questions or give any more details with respect to the legislation.

The Chair: At this point, Mr Chester, you are then able to make some remarks regarding the situation at hand. Thereafter we'll be asking a series of questions, but this is where you get to shine.

Mr Simon Chester: Thank you very much indeed. I want to introduce in the audience Mr David Corkett, the superintendent of finance for the Simcoe County Board of Education, who will be available if there are any technical questions.

As Mr Wessinger has told you, this bill is solving a very minor technical problem that has resulted because of a gap in the transitional arrangements between the coming into force of the Capital Investment Plan Act, which was passed by this House on November 15, 1993, and the new regime, which effectively came into force when the Ministry of Municipal Affairs and the Ministry of Education passed the regulations on April 27, 1994.

As Mr Wessinger has explained, under the old regime, before projects could be commenced, the approval of the Ontario Municipal Board was required if the projects were to be financed by long-term debentures. After April 1994, what happens is that the school boards have annual financial debt and obligation limits. These are global envelopes, if you will, within which capital projects can proceed.

The problem that we're facing this morning comes as a result of the school boards across the province having been told that the new regime was coming into force, that henceforth they would not be going off to the OMB, and the board of education for the county of Simcoe had thought that this meant that it was then subject to the new regime.

Mr Corkett and his colleagues at that point calculated the total global borrowing of the Simcoe board of education, found that it met the mathematical tests set out by the Ministry of Education, thought that it would be approved and ordered the construction work to com-

mence. I should stress to this committee that the school projects have been built, the construction is complete, students and pupils in the Simcoe board are in fact using those facilities today.

The other thing I should stress is that there's nothing unusual about these projects. They would have been approved under the old OMB scheme. They are properly within the borrowing limits set by the new legislation. What we're doing here is simply fixing the transitional problem.

The bill has two sections. The first confirms the capital projects. It says, yes, they're approved and, by the way, under section 2, you will be deemed to have the approval of the Ontario Municipal Board. The OMB has no jurisdiction itself to give that approval today.

I should stress that we have advertised extensively and no objections have been received and that there has been extensive consultation with both the Ministry of Education and the Ministry of Municipal Affairs. They both approve of the bill and can see no other way out of our procedural dilemma. I would be delighted to answer any questions.

The Chair: At this point I am required to ask if there are any other interested parties who wish to come forward at this time to speak to this matter. Seeing none, I would turn to the parliamentary assistant to give us some information on the ministry opinions.

Mr Pat Hayes (Essex-Kent): The Ministry of Municipal Affairs does not object to this bill, and it's my understanding none of the ministry branches either have any objections to the bill.

The Chair: Thank you, Mr Hayes. I will turn it over to the members. Are there any questions that the members wish to ask at this time? Mr Mills.

Mr Mills: I find it very well explained and I need to ask no questions at all.

The Chair: Mr O'Neil?

Mr Hugh O'Neil (Quinte): Not at all.

The Chair: My next obligation is to ask if members are ready to vote.

Mr Ron Hansen (Lincoln): We're all nodding yes.

The Chair: That doesn't record well on Hansard, I have to say.

Shall sections 1 through 4 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Gentlemen, Bill Pr153, An Act respecting the Simcoe County Board of Education—excuse me, one moment. I have failed in one area. We have a slightly different aspect of the bill that isn't normally on the list, so shall the schedule carry? Carried.

Shall the bill carry? Carried.

Bill Pr153 is carried, and, gentlemen, thank you this morning.

I'm looking for Mr Winninger. In his absence—

Mr Mills: Perhaps Mr Winninger didn't know the adjusted time of 10 o'clock.

The Chair: Actually, he did, and I suspect he might have run into a problem with the meeting this morning. But at this point I would ask Ms Cunningham, since you're a member from the London area, if you might at least introduce Mr Chester again in the new role of being with the board in London.

0920

CITY OF LONDON
BOARD OF EDUCATION ACT, 1994

Consideration of Bill Pr151, An Act respecting the Board of Education for the City of London.

Mrs Dianne Cunningham (London North): I met Mr Chester this morning and we did discuss the request by the London board with regard to this private member's bill and you were quite right. I think that he should proceed with his information and knowledge, and thank you very much.

The Chair: Thank you, Ms Cunningham, and Mr Chester, you're up again.

Mr Chester: Thank you again. I have with me Mr Jim MacKenzie, who is the manager of finance for the London Board of Education. I'm simply going to say this is the same story, same problem, the same solution and virtually the same provisions.

Mr Hansen: Are we ready to vote?

The Chair: Well, there are a couple of obligations I do have. Let's allow Mr Chester to finalize his remarks.

Mr Chester: I just want to add one thing, which is completely unorthodox. I am aware of the schedule of this House and I want to pay tribute to the extraordinary cooperation we've had from Ms Grannum and her staff and from Cindy Mifsud. I've never seen a legislative agenda moved along so smoothly. Thank you, Ms Grannum.

The Chair: In this committee we try to accommodate everyone who comes, as we have demonstrated on several occasions, and yes, the staff definitely deserve those commendations, because they do work very hard.

I do have to ask if there are any other parties who wish to come forward on this bill. Seeing none, and since members have indicated that they are prepared to continue—but I do have to ask if there are any comments from the ministries. I suspect that there are not, but let's be absolutely sure. Mr Hayes?

Mr Hayes: No objections, Madam Chair.

The Chair: Thank you. From the comments of the members, I take it they are ready to vote. Let me just find my feet here.

Shall sections 1 through 4 carry? Carried.

Shall the preamble carry? Carried.

Shall the schedule carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you. Bill Pr151 is done. Thank you for your time this morning.

Mrs Cunningham: Madam Chair, can I take this opportunity to introduce Julie Harvey. She's visiting the Legislative Assembly today for the first time. She's a student from Pleasant View Junior High, and she's part of the program, Take Our Kids To Work Day. I just thought that you would like to meet her because this is really an important day in her life and in our life too.

The Chair: Good morning, Julie. It's nice to have you here.

At this point I would like to ask, is Kathryn Jarvis in the room? Very good. If you would come forward along with Mr Mahoney.

MISSISSAUGA SYNCHRONIZED
SWIMMING ASSOCIATION ACT, 1994

Consideration of Bill Pr150, An Act to revive Mississauga Synchronized Swimming Association.

The Chair: Our next order of business is Bill Pr150, An Act to revive Mississauga Synchronized Swimming Association. Mr Mahoney, some opening remarks from you, please.

Mr Steven W. Mahoney (Mississauga West): Just to tell you that Kathryn Jarvis was unable to come and sent her better half, Steve Jarvis, who is here to answer any questions that the committee members might have.

The Chair: Very good. Mr Jarvis, this is your opportunity to make a few opening remarks. Feel free to begin at any time.

Mr Steve Jarvis: I'm not sure what to say. I've never been through one of these before. The Mississauga Synchronized Swimming Association is a volunteer association of parents that try and help a bunch of girls in Mississauga go through synchronized swimming.

We have about 70 or 75 participants that range anywhere from an hour and a half to 20 hours a week in swimming, plus we run what they call the satellite program for about eight pools in Mississauga that support about another 80 girls on a one-hour-a-week basis.

Unfortunately, being a volunteer organization, some things slip through the cracks, and somewhere back in 1987 somebody missed the refile for the corporation status for Mississauga Synchros. That's why I'm here, to try and get it back in place.

The Chair: Very good, Mr Jarvis. Is there anyone else at this point who wishes to come forward and speak to this matter? Seeing none, Mr Hayes, any comments on behalf of the ministry?

Mr Hayes: No. This doesn't really affect the Ministry of Municipal Affairs. Therefore, we have no objection.

The Chair: Very good. Are members ready to vote? Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Mr Jarvis, you and your wife have been revived, as the term is.

Mr Jarvis: Me and my wife, we just happen to be deeply involved.

The Chair: Very good, and thank you very much for coming this morning.

Mr Mahoney, there was a request earlier for your second presentation to possibly move further down the agenda. At this point are you prepared to move forward?

Mr Mahoney: Who requested that?

The Chair: Shelley Pohjola.

Mr Mahoney: Shelley isn't here, but a representative from the legal department of the city is.

The Chair: Okay, so in fact you're ready to go at this time, or we can just shift it down further if that's to your liking.

Mr Mahoney: I'm ready.

Mr Hansen: What are we going to do at 10 o'clock if we get done early?

Mr Mahoney: I've got a meeting at 10 o'clock.

The Chair: We have a few others to go. Mr Mahoney then, if you could again open the remarks.

CITY OF MISSISSAUGA ACT, 1994

Consideration of Bill Pr148, An Act respecting the City of Mississauga.

Mr Mahoney: With me is Joan Brennan, legal counsel for the city of Mississauga. We want to ask the committee to pass a bill that would allow the corporation to regulate and fundamentally prohibit the itinerant selling of goods along highways.

We're talking about—you've seen them I'm sure in your own communities—flowers is one that comes to mind, the velvet Elvis Presley pictures and things of that nature. But it goes beyond that. It includes a truck at the end of Winston Churchill in my own community on the QEW where they sell lobster out of the back. I always wondered about the health safety precautions that may or may not exist and that kind of thing. I've seen them on street corners with teddy bears, just hundreds of them selling teddy bears. I guess the kids who go by with their folks get attracted to this kind of thing.

The argument of course is that the business communities in the plazas and the storefronts and the main streets and everything which pay realty taxes, business taxes etc contribute to the overall quality of life in our community and these folks do not. While they may pay provincial sales tax or GST, they would not pay any kind of municipal taxation. We think that this goes against the grain of the retail establishment in our community and we'd like some authority to deal with it.

The Chair: Ms Brennan, if you would then make the comment on behalf of the city.

Ms Joan Brennan: The purpose of the city of Mississauga's proposed legislation is to grant the municipality authority to remove any and all goods which are offered for sale on the highway in contravention of local bylaws. The authority, it is expected, will enhance the city's ability to enforce the applicable laws of both the city of Mississauga and the region of Peel. Both these bylaws prohibit the sale of goods on a highway.

"Highway" by definition means both the travelled and untravelled portion of the roadway, thereby including the shoulder and the boulevard. The authority for these

bylaws is found in the Municipal Act, wherein municipalities are authorized to enact bylaws for prohibiting or regulating sales by retail on the highways or vacant lots adjacent to them. There is no provision made in the Municipal Act for the removal of goods unlawfully being sold on the highway, although authority for removal is granted for signs and motor vehicles elsewhere in the act.

0930

Some may find it difficult to understand why municipalities are so intent on resolving this issue. In fact, before one court appearance, the judge advised me that he'd watched *My Fair Lady* the previous evening. However, we're not talking about Eliza Doolittle selling flowers on the steps of Covent Garden. In the city of Mississauga, it is common to see a vendor offering his or her goods by the roadside. Typically, these roads are four-or-more-lane arterials with no sidewalk, a gravel shoulder and grass boulevards.

Arterials are a classification of road which are designed and intended to accommodate high volumes of interdistrict and interregional traffic with controlled and limited access. We are not referring to pedestrian-friendly sidewalks on well-travelled commercial and retail areas. Sales are transacted by vehicles pulling off the road, drivers exiting their vehicle to complete the purchase and thereafter yielding back into the traffic. A pedestrian sale is a rare occurrence in the city of Mississauga.

Council is of the opinion that roadside sales are inappropriate, as they needlessly create dangerous traffic conditions which pose risk to property and person. As well, vendors do not pay realty or business taxes, unlike the legal businesses operating in the city. In this context, they are seen by vendors of similar goods to have an unfair competitive advantage.

Charges laid under the bylaw have proven to be expensive, both in terms of financial and time commitment, not only for the city but also for the provincial court, and, more significantly, charges have been proven to be totally ineffective in most cases. The vendors continue to sell their goods on the highway, blatantly in contravention of the bylaw which prohibits this activity.

The frustrations experienced by city council led them to consider alternative methods of enforcement. In 1990, the city of Toronto obtained temporary legislation to remove goods that were being sold illegally. In 1991, council recommended that private legislation be sought which would allow the removal of goods of those vendors who were not licensed or were not selling from a location for which they had a permit. The recommendation in this form was not pursued.

In September 1992, three members of council were appointed to form a street vendors ad hoc committee. The mandate of the committee was to review the necessity for establishing criteria and guidelines for regulating the sales of goods by street vendors. Extensive time and deliberations were expended by this committee in arriving at their recommendations, which were adopted by council. Opportunities were made available during the tenure of this committee for deputations from the public.

The committee completed its report in June 1993.

Included in the recommendations adopted by council the following month was the direction to the office of the city solicitor to apply for private legislation to authorize the removal of goods being sold in contravention of city bylaws. Later in the year this recommendation was fine-tuned to be limited to goods sold on the highway, and this is the request that is before the committee today.

To fully appreciate the current situation in Mississauga, the committee should be aware that in August of this year, council enacted a vendors bylaw. Under this bylaw, vendors may obtain licences from the city to sell their goods on private property subject to meeting the criteria set out in the bylaw.

The legislation that Mississauga is requesting is currently extended to Windsor, Ottawa and Toronto. Toronto's legislation recently withstood a charter challenge wherein the seizure of goods was held not to be a violation of section 8 of the charter, being the right to be secure against unreasonable search or seizure.

With the roadside sales bylaw reinforced with the authority to remove goods from the road and the recently enacted vendors bylaw working together, council feels confident that outdoor sales can be effectively and equitably controlled. With these controls and regulations in place, the safety of the travelling public and the vendors becomes less of a concern.

Therefore, subject to any questions you may have, I ask, on behalf of the city of Mississauga, that you lend your support to this bill. Thank you for your attention.

The Chair: Thank you, Ms Brennan. At this point, I am required to ask if there are any interested parties. I have listed Mr Andrew Paton, if he would please come forward. Is there anyone else who is interested in speaking to this matter? Mr Paton, since you seem to be the only one who wishes to speak on this matter, please feel free at this point to state your case.

Mr Andrew Paton: I'm a solicitor. I act on behalf of a number of vendors but specifically a company called Cash-N-Carry Wholesale Flower Market. They are suppliers of flowers to vendors across pretty much the greater Toronto area. They've been in business for some 30 years, having started in the city of Toronto in what we consider the good old days where you walked in and for \$5 got a permit and everything was fine.

Cash-N-Carry has approximately 15 full-time employees and some 30 part-time employees, depending on the season and whether it's Mother's Day or Valentine's Day, and they supply on almost a daily basis over 100 vendors. This is a business, and for vendors generally it is a business: It's their livelihood.

We worked very hard through the years with both the city of Toronto and Metropolitan Toronto to arrive at a licensing process in those municipalities that was fair to vendors and fair to retailers. I was before this committee a year or so ago when the city of Toronto came to reinstitute, I would suggest, its powers, in that there was a challenge to its bylaw which ended up in the Supreme Court of Canada; the Supreme Court of Canada effectively struck down the bylaw and the city came back to this committee.

This committee and the Legislature did enact that private member's bill, and Ms Brennan mentioned it in her presentation. She also mentioned the street vendors ad hoc committee, which did meet for some time. We had the opportunity of appearing before that committee, and our purpose in appearing before that committee was to try to convince Mississauga that indeed vending is an appropriate undertaking in business.

The ad hoc street vending committee ironically outlawed street vending, and currently in Mississauga you cannot display or sell any kind of goods, and this includes—and I'm not too sure Mississauga understands this—your local greengrocer who, quite often, will put out fruits and vegetables on the sidewalk. If indeed that's the road allowance, that is outlawed, and under this particular bill that will be subject to seizure.

They have now allowed vending only on private property and in the parks. Interestingly enough, if you examine the legislation, which I'm sure you all will, you'll note that where they have a licensing procedure, they haven't asked for seizure. They've only asked for seizure where they have outlawed, and that's quite interesting.

In the background compendium, which I'm sure is before you, my understanding of section 3 is that they asked for similar legislation in, the city of Mississauga has indicated, the cities of Toronto, Windsor and Ottawa. If you look at that legislation, which I'm sure you will in your deliberations and consideration of this bill, the seizure provisions relate to a licensing regime. Those cities have come to the Legislature and have said, "We want to encourage vending, but we want to control it," and I suggest to you that that is appropriate.

This will be the first time that I'm personally aware of that the Legislature will just outlaw vending and allow seizure in that situation. In the other situations, you've said: "Fine. You have a licensing process. We will give you some added powers, which other people don't have, to enforce it." I've taken the position in front of Mississauga that that is not inappropriate; that is something that I personally think works. But I don't think you should just seize goods and totally ignore the fact that vending is—obviously, people wouldn't be on the street selling things if there weren't a demand.

0940

Ms Brennan and Mr Mahoney both in their presentation talked about realty taxes, business taxes. Windsor, Ottawa, Toronto, Metro have overcome the ghost of competitive advantage and have said, "First of all, we'll charge a licence fee," which is on a per-square-metre or per-square-foot basis higher than any realty or business taxes that are paid. They encourage it. When Ms Brennan talks about competitive advantage, what competitive advantage is there? If I'm a person who sells flowers or fruits or teddy bears or Elvis Presley paintings in a store where I pay business tax and realty taxes, it doesn't preclude me from going out and getting a vendor's licence.

It's interesting. With the municipal bylaw process, the municipality doesn't say: "At the corner of King and Bay, we'll only allow one bank. We're going to zone for one bank because we want to give another bank a

competitive advantage." We've made this presentation before with respect to competition and how this country and Mississauga indeed were built on competition. What they are saying is, "We're not going to allow that competition"—although, interestingly enough, and you will see it in your material, Mississauga through this process had a bylaw and continues to have a bylaw that didn't allow vending on the streets, except that they went wink, wink and nodded and allowed hot dog vendors.

If you go through your material, you will note, for instance, "Vendors on the Highway," in a report of the ad hoc committee of August 11.

"As indicated previously, the current bylaw prohibits retail sales on the 'highway' as defined in bylaw 503-81.

"In 1992 (May 1-April 30), 27 licences were issued for the second year on a trial basis to refreshment cart operators for use at specified locations on public property. Several of these licences also enjoyed the use of a park location on weeknights and weekends."

This was a major complaint we had, and we continued to vend in spite of the bylaw because we were clearly being discriminated against, as were other vendors of either lobsters or Elvis Presleys.

The other thing is that Ms Brennan indicates it's unsafe to motorists, to vendors, to people buying goods. Obviously, in the wrong location that is true, and in Windsor, in Metro, in the city of Toronto, there are clearly spots picked that are safe. Back on November 4, 1993, I wrote to the chairman and the members of the ad hoc committee and indicated to them that, "We believe there are at least four sites," and we just picked four, "where we think there is appropriate traffic for a vendor—enough people, enough customers—and there are areas that people can either pull off or park; they're safe." That letter was never responded to. So to say this is being put in to save lives is clearly not accurate.

There is a need, a demand for vending. Mississauga doesn't want to recognize that. That presumably, under the Municipal Act, is their right, but I think this is a very, very unusual piece of legislation. There's no other legislation of this kind that has been passed that I'm aware of, and I would be interested if Ms Brennan knows of any, where the right to seize is not in conjunction with the right to license. I suspect it's a draconian and inappropriate way to enforce that type of bylaw. It's a control that may be needed where there's licensing, but it's not needed where there isn't licensing. I think it's inappropriate and I'm here to ask you not to pass the bill on to the House in these what I consider unusual circumstances.

The Chair: At this point I'm going to turn to Mr Hayes to provide some of the ministerial background to this bill.

Mr Hayes: Ministerial background?

The Chair: The information from MMA or other ministries, right?

Mr Hayes: There are no objections from any of the ministries. The Ministry of Municipal Affairs is actually neutral on this matter, but we do understand that they can still license vending on private property. I guess that's the difference. We are not objecting to it.

Mr Chris Hodgson (Victoria-Haliburton): I have a question for the parliamentary assistant. This problem's common throughout Ontario. In my own riding of Victoria-Haliburton the town of Lindsay has had similar concerns. I'm familiar with the town of Whitby near Oshawa; they have similar concerns. Why hasn't Municipal Affairs looked at bringing in an amendment which would do this for the whole province and address some of the concerns about licensing and set up a format. To make every municipality in Ontario go through a private member's bill seems a little ridiculous to me. This problem's been around for years. I just wondered why they haven't done it.

The Chair: First of all, I don't think it's Municipal Affairs' area. I think it would be more Consumer and Commercial Relations if you were to deal with anything like that. That's my personal view, but we'll go to Mr Hayes.

Mr Hodgson: No, it's under the bylaws.

Mr Hayes: You do bring up a valid point and it certainly appears that there should be a blanket piece of legislation. At the same time, these particular issues dealing with vending machines have really only come from the large urban areas.

Mr Hodgson: That's not true.

Mr Hayes: It is true what I'm saying; it hasn't been brought up in this committee before. Maybe you have a problem there; I'm not disputing that. Do you want to add to that, Margaret? This is Margaret Wood from Municipal Affairs.

Ms Margaret Wood: Actually, this is the first time I've heard that street vendors are a problem in a smaller area. Generally the problems are in large metropolitan areas, from what I've seen in dealing with the issue for, I don't know, the last three or four years.

Mr Hodgson: If I may ask through the Chair to this gentleman, how many times have you been in court? I know of a couple of instances in municipalities where your company's gone to court to prove that bylaws aren't in effect. The problem, and why it hasn't gone further, is the legal expense incurred by smaller municipalities. They look at it and say, "Do we want to spend this kind of money challenging this or do we just want to let it go?"

The Chair: Mr Paton, did you want to respond? Mr Hodgson directed some of that question to you.

Mr Paton: My client is in court quite often. My client was the one that ended up in the Supreme Court of Canada on the Sharma case, which set law. We consider that a number of the bylaws are discriminatory, and that has been the normal attack. As I indicated to you, Mississauga allows hot dog vendors under a bylaw that doesn't allow vending.

The other thing I should indicate is that Ms Brennan in her presentation talked about the city of Toronto charter challenge, which she indicated had failed. I should indicate to the committee that it is under appeal, so you haven't heard the last of that. This law, if it passes, may or may not be struck down.

For someone who supplies as many vendors as my

client does, it's worth the legal expenses, because they have a hundred daily and hundreds throughout the GTA area that make a living doing this. And it's a different product: You wouldn't take my clients' flowers and send them to your grandmother, because they don't go that way; you'd phone a florist and the florist would do it. We have a different product, an impulse product, and it's quite different.

0950

The Chair: Thank you, Mr Paton. Ms Wood, did you want to add anything to Mr Hodgson's questions?

Ms Wood: One thing I'd like to point out is that the minister has not received, as far as I know, any letters from smaller municipalities asking for more authority to regulate street vendors, so I guess that's what we've been going on. Because it appears to us that the problem tends to be confined to the larger metropolitan areas, in reality just a few of the 800-odd municipalities in the province, the way that we've tended to have it dealt with is to not object to private legislation when they bring it forward.

Mr Mills: I've listened to the presentations here this morning, and like my colleague Mr Hodgson, I live in small-town Ontario, and it's a problem. In Bowmanville, we have florists who make their living—I just single them out as an example—they pay taxes, property taxes etc, and these flower vendors appear on strategic locations on the corner. They're a hindrance to traffic and they seem to focus on special days, like Mother's Day and near Christmas and things like that. I know that the florists have spoken to the town council, and the mayor spoke to me about it, that this takes away from their livelihood in a very meaningful manner. I don't subscribe to the comment by Mr Paton that this is a special sort of market, that if you want to send your mother some flowers you order them from the florist. I don't think that happens.

I heard Mr Paton say it's fair to vendors and it's fair to retailers. I have difficulty with understanding how fair it is to retailers when these folks come in and they just set up an umbrella, a lawn chair, and about eight, nine or 10 buckets of flowers all around the intersection, usually obstructing good vision of oncoming traffic, and I suspect that the person who's selling those flowers, who sits there eight hours or whatever it is in the boiling sun with a cooler in front of them, is getting very, very poor remuneration for their efforts there. To say that given those circumstances, the retailing of flowers is fair to retailers, I have great difficulty with that.

To move right along, we know and the parliamentary assistant has said that this is allowed on private property, and I know that to circumvent local bylaws now these folks do go to garages and things like that on their lots when they're not open on the weekend. I believe in democracy and I believe in the parliamentary system, whether it be here, in Ottawa or at the municipal level, and I believe that Mississauga has a right to enact a bill that represents that city and represents the views of the people who were elected to govern that municipality by the people at large.

My thoughts, Madam Chair, are that I will be supporting Bill Pr148. It may be struck down. I don't know. I'm

not a lawyer, but my position here this morning is to offer my support for that.

Mrs Ellen MacKinnon (Lambton): I have very, very mixed emotions about this whole situation. I'm thinking about my riding, which is very, very rural and at the appropriate time of the year, the various growers, be they farmers or be they gardeners, put their produce and their products at the end of their driveway, and they're there for all the world to enjoy, either to look at or to take home and use.

I'm just wondering, if Mississauga is given this power, where does it end? Do we have every municipality or every individual coming in here with a private member's bill, and we have a hodgepodge of legislation that would be almost impossible to wade through, at least for me, not being a lawyer?

I have great difficulty with this; I really do. I've been lobbied by the florists of the world, or at least of Ontario at any rate, asking to try to do something like this that would regulate or whatever it is in regard to the vendors. I personally have a great deal of respect for vendors. It has to be without a doubt the hardest, most difficult, least rewarding job in the world. I could not and I would not do it for anything, but I still have to admire them that if they have no other means of support they get out and do it. However, perhaps what is needed is that we as the government of Ontario should be allowing some type of legislation that would put an overall umbrella, if you will, on this whole aspect across the province and then let the municipalities work out their own regulations under that particular type of umbrella, as I called it before.

I have great difficulty with it because, as I said initially, what about the rural area when they put out their apples and their peaches and their potatoes and so on? Where does it go from here?

The Chair: Mr Hayes wanted to respond to your comments.

Mr Hayes: Yes, Mrs MacKinnon. This particular type of bylaw or act, whatever, wouldn't affect those people. It wouldn't affect farmers, for example, bringing out their produce. As a matter of fact, that's on private property in the first place, so it wouldn't really affect them.

Mr Hansen: At the street.

Mr Hayes: At the street, but this would not affect, like I say, the farmers in rural Ontario. That's really what I'm saying. If they're on there, they'd be on private property to begin with.

The Chair: Mr Wessinger, Mr O'Neil and then Mr Hansen.

Mr Wessinger: I do have some problems with this legislation in the sense that I must say on basic principles I'm against legislation which prohibits competition in the retail area, and that's what, in effect, this legislation does. It allows tremendous powers for the municipality to, in effect, prohibit all street vendors within the whole municipality, on any of the sidewalks etc.

I certainly believe in having a variety of vendors and I don't believe we exist as a Legislature to support the status quo of only established retail establishments. Surely we have to support the concept of competition in

the consumer markets. I know in my own municipality when this matter came up—and I actually was involved in making a presentation to council on this issue when they were trying to ban hot dog vendors from the streets. In effect, hot dog vendors, by this bylaw, can be banned from the sidewalks of Mississauga, for the downtown areas of Mississauga, to protect the "restaurants" who run their—and I think that's quite a degree of power to be given.

My objection is not with the word "regulation." I could quite easily accept the private member's bill if it was the power to regulate, but the power to prohibit I find great difficulty with. That's my first concept in the sense that if I was voting for this I would vote against it. I'm adamantly opposed to this high level of restrictions. The second question is the more difficult one: Should we give municipalities the power to prevent competition? That's the second question. So there are two issues here.

The first one, I can't see why anyone would want to give the power to absolutely prohibit street vendors. Secondly, provincially, should we give this power to municipalities? If somebody can give me some precedent where another municipality has been given the power to prohibit, I might be inclined to say that since we've set the precedent it's up to the local body to make the decision on whether to restrict competition or not. But at the moment, I'm inclined on balance to vote against this bill.

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The Chair: Our list at this point is Mr O'Neil, Mr Hansen and then Mr Mahoney. Definitely, our usual procedure is to allow the applicant to make some remarks as well.

Mr Mahoney: On a point of order, Madam Chair: I just wonder if there might be an opportunity, particularly for counsel, to clarify some things because—

The Chair: There will be, Mr Mahoney, but we do try to keep a list and I had put Ms Brennan on the list and definitely she will be allowed to respond. Mr O'Neil?

Mr O'Neil: I'd have a couple of questions of the people who are here this morning, and that is—I'm not a lawyer—that the bill would restrict these vendors from selling from roadsides or public property. Is that right?

The Chair: Is that directed at Ms Brennan?

Mr O'Neil: To both really, for comment.

The Chair: We'll have Ms Brennan first and then Mr Paton.

Mr O'Neil: Whatever you'd like, Madam Chair.

Ms Brennan: That's correct. The municipalities of Ontario as a whole already have the power in the Municipal Act under section 210, paragraph 73, to prohibit street vending. Where the city of Mississauga has had difficulties is in enforcing what's already in our bylaw, which doesn't allow vendors on the street. The street includes, by definition, the shoulder of the highway and the boulevard, so that's all we're asking for in this legislation. It's not any extraordinary power to prohibit. That's already there in the Municipal Act. It's just to spruce up and assist us in the enforcement, since the vendors continue to blatantly violate the bylaw.

Mr O'Neil: What you're saying, in other words, if the people who want to sell these flowers were to obtain permission from a private landowner—say, a garage which was mentioned or some other private property owner—that they could go on that property, they would have to, at that time, apply for a licence to sell from that property?

Ms Brennan: That's correct. We now do have a licence as of August of this year, a bylaw for hawkers and vendors, that if they can apply for a licence on private property, if they can have the consent of the owner and if they meet the criteria under the bylaw, one of those criteria will be meeting the zoning bylaw. Since that bylaw's come into force since August, hot dog vendors have come forward to city hall and have applied, have gone through committee of adjustment and have licences. Since August of this year, when the bylaw came into effect, there have been no flower vendors come forward and even apply for a licence to sell on private property. If they can make an arrangement with an owner and get their consent and meet the criteria, then yes, the city will license them.

Mr O'Neil: But could a problem arise? In other words, if the flower vendors wanted to sell within a certain area, that area, as you are saying, would have to be zoned with a commercial designation for them to sell?

Ms Brennan: It has to be zoned for outdoor sales.

Mr O'Neil: How restrictive are you on outdoor sales?

Ms Brennan: The zoning bylaw's very restrictive, when we went through it, as to which zones do permit outdoor sales for anybody. But as I say, some vendors have come forward and have worked with the system, have gone through the committee of adjustment, got the requisite variance and the licence from city hall.

Mr O'Neil: I guess my question would be to you, sir, then as to what your feeling is on the present system that they have set up and whether or not you or your clients could work with the city of Mississauga to permit the sales.

Mr Paton: First of all, Ms Brennan indicates there is a bylaw in place. If I might take a moment to give you a flavour of the bylaw: First of all, the zoning where you're allowed is very, very restrictive. I would submit they're doing indirectly what they're not prepared to do directly, so there are very, very few areas that you can do it in.

The second thing is the bylaw contains a number of provisions that I personally have said to the committee, and Ms Brennan actually took up a number of our suggestions—one of the suggestions, and it goes to competition—they had a provision in their bylaw that said, if there's a business improvement area established where the location is to be established, you must get the approval of the business improvement area.

Well, if I sell hot dogs and I'm a restaurant in a business improvement area, I'm going to approve a licence? Absolutely not. That was finally struck out. But there are other provisions. For instance, if my client goes to get on private property, to get a licence, there's a right of inspection under this bylaw that says: "Upon an inspection, the person inspecting is entitled access to the

invoices, vouchers or like documents of the person being inspected."

I don't know of any other inspection law that you might have provincially and municipally where you can go in and inspect the meat to see if it's safe and then say, "By the by, I want to see all your vouchers and I want to see all your business documents."

There are other provisions that state that to maintain the licence, an applicant up for a licence who complies with the provisions of the bylaw is, subject to the provisions of this bylaw, entitled to be issued a licence except—you can get a licence, except, number 2—"the past or present conduct of the applicant or any partner. In the case of an applicant which is a partnership or any director of a corporation....affords reasonable grounds for belief that the business in respect of which the application is made will not be carried on in accordance with the law and with integrity and honesty."

Can you imagine? I go in for a licence on private property and the licensing official says to me, "We have reason to believe that your past and present conduct isn't honest and you're not dealing with integrity." Well, I think there's every profession, every business from politics down to vendors that has problems with integrity and honesty, but it doesn't deny you your livelihood. So this is why we are opposed to this type of bylaw.

But the major point that I'm here to say today is: Put a system of regulation in and then if you need added clout to enforce it, we can live with that. But to come and say, out of the blue, "We're just not allowing it and we need a hammer to enforce it." Interestingly enough, and I hope you understood my point, with respect to this bylaw that's now in place, which is extremely badly drafted, in terms of human rights and on and on, with respect to integrity and honesty and those types of things, it's bad. But they haven't said to you: "Where we license, give us some help. Let us seize." If I'm illegally on private property, why shouldn't they be able to seize? They haven't asked for that. They've just said: "We're going to stop this, no matter what. We're going to stop this competition." And it is competition; that's purely what it is. It's bad law, and there is no other municipality in this province that I know of, and that Ms Brennan can point to you, that has come and said: "We're going to prohibit. Give us this power." All the others have come and said, "We want a licence."

In the material you will see that Ms Brennan or one of her colleagues talks about Winnipeg, Edmonton and other places, and clearly in this province and in this country, the trend is to vending, not away from vending.

Mr Mahoney: Point of something: Could I take time, because I can get on a soapbox, too?

The Chair: Mr Mahoney, you're on the list, actually, and we do try to handle this in an orderly manner.

Mr Mahoney: With due respect, may I comment on that? Because frankly, I just heard a complete presentation that has nothing whatsoever to do with the bill that's before this committee. I heard a complete diatribe taking apart the city's bylaw on licensing. That's not what this is about and I'm concerned, Madam Chair, with due

respect, that the committee will be influenced on a matter that is not before the committee with regard to the decision. I don't think you're hearing both sides of the argument, so I would just like that opportunity.

The Chair: Mr Mahoney, I understand that you have an interest; you are the sponsor of this particular bill. Members do have a right to answer and deponents do have a right to respond, and we do also try to deal with this in a polite and orderly manner. At this point, having said my piece, I'm going to turn to Mr Hansen, and you're the next person on the list, after Mr Hansen.

Mr Hansen: I know this is a problem in my area. Other than maybe Pat Hayes, I have the most greenhouses. The flowers that the greenhouses grow in my area are not for sale in my area but have the understanding that a lot of these plants are coming from Quebec, for Mother's Day in May. So they don't enjoy the income from producing these plants. But then I take a look at the seizure part and I'm looking a little bit more in regulation. I'm at a point right now, I'm going to hear more discussion on this before I vote because I'm not too sure that I would wind up wanting to pass this particular bill. So I'm going to listen to the rest of the questions and some of the answers from the presenters here.

1010

Mr Mahoney: I apologize for my frustration, but I sat and listened to Mr Paton discuss the licensing bylaw of the city of Mississauga, which is not what is before you today. Let's be very clear that, as counsel has rightly pointed out, the ability to prohibit is already in the Municipal Act, so that's not what we're talking about here. There is a system in place in the city whereby the clients of Mr Paton's client, because Mr Paton's client, as I understand it, is fundamentally a wholesaler selling products to the vendors who would then sell them on the street, can make arrangements on private property to display and sell their wares in an appropriate fashion.

I would ask you all to think about your communities. We take a lot of pride in Mississauga in the fact that we have a number of what we refer to as planned communities. The community of Erin Mills, where I live, for example, is known throughout the world for the planning that went into place to develop this community. Of course, you decide where it's appropriate for various types of housing to exist, where it's appropriate for industrial, for commercial, for retail malls, for plazas, for gas stations, for just about anything you can imagine that goes into making up a large urban community.

Our city is fast approaching half a million people. As a result, we have a lot of congestion; we have a lot of planning concerns. To suggest that we should just, in the name of competition, throw out all the zoning bylaws and allow for people to pull up their car, flip open the hatchback at the back, wheel out the flowers or the pictures or the lobster, and start selling them in competition with the people who have gone through the proper planning process, I find that just absolutely absurd.

In fact, I think one of the things, in response to Mr Hodgson's concerns about why there isn't a broad provincial law—I mean, that's very interesting because in reality municipalities, Mrs MacKinnon, like yours and

many others around, have always said, "We know what's best in our community. Let us decide what's good for our residents and good for our community," obviously within a certain framework. But the reality is, they already have the right to prohibit this kind of stuff and it should be up to the municipality to decide whether or not they want to do that.

I would support Mrs MacKinnon when she says that she wants her farmers and producers of vegetables etc in certain times of the year being able to come out into the community and sell them and make them accessible to the people in that community. But at the same time, let me share with you a letter written by Mr Paton to the chairman and members of the street vendors ad hoc committee, in which he says in the letter, this letter dated November 4, "We would submit that there are a number of locations in the city of Mississauga that are appropriate for vending. In this regard, we would suggest you seriously consider the following locations."

I have you at a disadvantage because you wouldn't know Mississauga the way I know it, but all four of the suggested locations happen to be in my riding. Burnhamthorpe Road on the north side, west of Mavis: We're talking about the intersection of two four-lane roads. Burnhamthorpe would take between 10,000 and 15,000 vehicles a day along the east-west artery of Burnhamthorpe Road. We've always referred to Burnhamthorpe Road in our planning discussions in Mississauga as the University Avenue of Mississauga. It is a main entrance into the city core from the west and from the east. Highway 403 comes off less than a mile to the north on Mavis Road. It accesses into Square One. There's a farmers' market in Square One, by the way, run by the Mississauga Lions Club, which generates tens of thousands of dollars of money for charities throughout the city that this would be taking away from, a very successful farmers' market that many of the farmers from your own ridings may indeed come in and participate in and take a stall in. So that's Burnhamthorpe west of Mavis.

The second one is the Queensway, south side, west of Highway 10, just west of the entrance to Mississauga Hospital. Highway 10 would be Mississauga's answer to Yonge Street, without a doubt; probably 20,000 vehicles per day on Highway 10. It is a major four-lane road. The Queensway is also a major four-lane, east-west artery.

Erin Mills, on the east side, south of Folkway, is absolutely mind-boggling. It's called Erin Mills Parkway. In terms of planning, we would refer to it—although it doesn't get quite as bogged down, but at times almost—as the Don Valley Parkway. It is a major highway that runs north and south from the QEW up to the 401, through the heart of the western extremity of the city of Mississauga. I would estimate probably in the neighbourhood of 30,000 vehicles per day up and down Erin Mills Parkway. It's not only a major four-lane arterial, but it is a divided highway as well. Speed limits are quite high and in fact most of the speed limits aren't obeyed.

The fourth one is Dundas Street, on the south side, east of Woodchester. Once again, Dundas, 10,000 vehicles per day. Highway 5 is a major access route that is an alternative to the QEW during rush-hour problems for many,

many people and is literally, as they say in traffic jargon, stop-and-go to slow in many instances, but in this particular area at the western extremity of the city, is wide open at times and the speeds get quite high.

I would ask the committee to recognize that Mr Paton's client will still be able to sell to their clients who will be able to get a licence from the city of Mississauga and set up and operate to sell their wares on private property. They could make arrangements with a local plaza whereby the merchants would have some input; they could make arrangements with a gas station where they're off the highway—they're not out on the side of the road causing potential traffic problems—and there would still be an ability to respect the zoning.

I can tell you that in my 10 years on municipal council and my seven years here, I've had literally hundreds and hundreds of complaints from residents because they don't like the unsightliness. They got involved in a planning process to approve places where these types of products would be sold. Not just the vendors, not just the retailers, but the citizens of Mississauga don't like to see this kind of thing being set up all over on the side of the road. They say, "Why did we bother with going through all the zoning hearings and the arguments put forward by various different people if you're just going to ignore them all and allow for this kind of activity to go on anywhere?"

With regard to the argument about it being the vendors' livelihood, they can still have a livelihood if they obey the rules and apply for a licence. I find it quite intriguing, as was pointed out by Ms Brennan, that no flower vendors have applied for a licence even though they are entitled to if they're prepared to do their homework and make the arrangements necessary to find agreements with private property owners to display and sell their products.

I respect Mr Paton's comments with regard to fighting this at a higher level. Maybe indeed he will do that and maybe indeed he will be successful at that. The point is, the city of Mississauga is saying to this committee: "You've already given us the power to prohibit it under the Municipal Act. We're being ignored. We need some more teeth so we can enforce the law that was already passed by the provincial Legislature. We only want to do it for the city of Mississauga. We do not want to affect other ridings and other communities around the province. We think they should have an opportunity to make those decisions on their own."

I would respectfully request that we try to stick to the issue, which is not Mississauga's licensing bylaw. That may be a battle for another day by this counsellor or another, but indeed it is a private member's act respecting the city of Mississauga which would give Mayor McCallion, her council and the staff some teeth to prohibit this kind of activity from taking place in areas where the citizens of Mississauga do not wish to see it. It is very clearly a matter of zoning and land use and what people expect to go on in their city. It does not prohibit competition in any way whatsoever but clearly lays out the ground rules under which that competition may take place.

Once again, I apologize for my level of angst this morning. I probably had too many coffees.

1020

The Chair: At this point, I would ask members if they are ready to vote. Yes?

Shall sections 1 through 5 carry? Are there any opposed?

Mrs MacKinnon: I am. I'm opposed to the whole thing.

The Chair: Okay. It is carried.

Mr Mills: Maybe we should have a recorded vote.

The Chair: Would you like a recorded vote?

Mr Mills: Yes.

The Chair: Okay, a recorded vote. All those who are in favour of sections 1 through 5, please signify.

Ayes

Cooper, Hansen, Hayes, Mills, O'Neil (Quinte), Ruprecht, Wessenger.

The Chair: All those opposed, please signify.

Nays

MacKinnon.

The Chair: Shall the preamble carry? Members, please signify.

Mr Hayes: Same vote.

The Chair: Same vote.

Shall the title carry? Please signify. Same vote.

Shall the bill carry? Same vote.

Shall I report the bill to the House? Agreed. The bill is passed.

OSHAWA DEAF CENTRE INC ACT, 1994

Consideration of Bill Pr154, An Act to revive Oshawa Deaf Centre Inc.

The Chair: We have our next order of business, Bill Pr154.

Interjections.

The Chair: Order, please. The noise carries in this room in strange and wonderful ways, and it's hard for everyone to hear with the private conversations. Mr Mills, you have the opportunity at this point, as sponsor, to make a few opening remarks and introduce the applicant.

Mr Mills: I'm sure that this bill, Pr154, will be much less controversial and hopefully will whistle through in a couple of seconds.

Anyway, to the point: I'm here at my pleasure to present to you an act to revive the Oshawa Deaf Centre Inc, and on my extreme right and your left is David Salmers. He's the solicitor of Salmers, Strike and Furlong from Oshawa.

What has happened here is that the Oshawa Deaf Centre was dissolved under the Corporations Act in 1987 for default in complying with the Corporations Information Act, and again, as happens so often with so many of these that appear before us, Oshawa Deaf had no idea that they weren't in compliance. They carried on business as usual, and then it came to their attention that they were out of order and they were in breach of the Consumer

and Commercial Relations corporations tax branch, and they have since taken steps to rectify that position.

Mr Salmers here will comment on the bill, but I believe that there are no objections anywhere from any ministry about this. David, please go ahead.

Mr David Salmers: Thank you very much. I have very little to add. It is a non-profit corporation that services the deaf community for Durham region. It was incorporated by letters patent in 1982 and dissolved in 1987. It wasn't discovered till over six years later. The company has continuously served the deaf community, it has assets and it wants to continue to do so. It has to be revived to do so.

The Chair: Thank you, Mr Salmers. I would ask if there are any other interested parties who wish to come forward on this matter.

Seeing none, I would ask if there are any questions on the part of the members present.

Seeing none, I was informed—and I'm sorry to be the one to inform you; Mr Hayes always does such a good job but he had to leave momentarily—and he indicated that there are no ministerial objections to this revival, so I would ask at this point if members are prepared to vote on this matter. Yes? Okay.

Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Well, Mr Salmers, Bill Pr154 has—I'm sorry. Mr Cooper. You have to be fast in this committee.

Mr Mike Cooper (Kitchener-Wilmot): I move that the committee recommend that the fees and the actual cost of printing at all stages and in the annual statutes be remitted on Bill Pr154, An Act to revive Oshawa Deaf Centre Inc.

The Chair: Members have heard the motion. All those in favour, please signify. Any opposed? Seeing none, carried unanimously.

Mr Salmers, you not only have your bill, but you have the costs covered. I hope that meets with your satisfaction.

Mr Salmers: We do appreciate that. Thank you very much.

CITY OF YORK ACT, 1994

Consideration of Bill Pr146, An Act respecting the City of York.

The Chair: Our next order of business will be Bill Pr146, An Act respecting the City of York, and we welcome Ms Poole and the applicant, Mr Bartlett, from the city. If you would then introduce your applicant, Ms Poole, and make a few opening remarks as sponsor.

Ms Dianne Poole (Eglinton): I'm very pleased to sponsor this bill on behalf of the city of York. This bill is basically to cover an administrative process to allow the city of York to collect the revenues from leases on the boulevards surrounding the roadways. They just wish to be able to collect the money from these leases in the

same way as they are collecting their municipal taxes.

I would like to introduce George Bartlett, who is the city solicitor for the city of York and will give you further details about the ramifications of the bill.

The Chair: Mr Bartlett, if you would then on behalf of the city make any remarks.

Mr George Bartlett: As Ms Poole indicates, the bill is quite simple. It relates to the collection of boulevard leasing and licensing fees.

The city leases boulevards to property owners for a number of uses. One of the most common ones is front yard parking or boulevard parking. In the residential areas we call it front yard parking; in commercial areas it's called boulevard parking. In other places where we lease the boulevard, it's for roadside displays of merchandise or outdoor eating areas. In all these cases there is a licence fee for the use of the boulevard which is charged to the person occupying that space.

The leases and licences generally go on beyond one year, and what we're seeking is the authority, as the new year starts under the lease, to collect the amount by simply adding it to the collector's roll and sending it out with the municipal tax bill. It's really administratively to simplify our procedures so that separate bills don't have to be sent out on each of these matters.

The Chair: I would ask if there are any other interested parties who wish to come forward on this matter. Seeing none, Mr Hayes, would you like to let us know if there are any objections from any of the ministries?

Mr Hayes: The Minister of Municipal Affairs does not object to this bill.

The Chair: Are there any questions on behalf of the members?

Mr Mills: The Minister of Municipal Affairs is not objecting, and that's good enough for me.

The Chair: How about any of the other members who are here?

Mr O'Neil: I would just say that because Mrs Poole is here to support this bill, that's why I'll be supporting it too, along with the contents of the bill, just to keep this a little political.

The Chair: We could get into a whole lot more but I don't think it would be wise, so I will ask the question. Are members ready to vote? Yes.

Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Mr Bartlett, as you can see, Bill Pr146 has been carried and I hope that meets with your satisfaction.

Mr Bartlett: Yes, it does, and thank you, Madam Chair, and members.

1030

CITY OF YORK ACT, 1994

Consideration of Bill Pr147, An Act respecting the city of York.

The Chair: Mr Bartlett, I understand you're doing double duty today as well as Ms Poole. Our next order of business is Bill Pr147. Ms Poole, would you like to make some opening remarks at this point?

Ms Poole: This bill has again been requested by the city of York in order to pass bylaws establishing demolition control areas and prohibiting the demolition of buildings and structures in that area without first obtaining a demolition permit.

There's a second purpose of the bill, that the council may refuse to approve an application for a demolition permit unless the owner of the land enters into a beautification agreement respecting the land pending development. Mr Bartlett will again give you the details.

Mr Bartlett: Thank you, Ms Poole. This bill seeks some additional demolition control authority for the city of York, but it's a very limited authority. The bill as originally drafted was somewhat broader. Through discussions with ministry staff and officials, some additional provisions have been included in the bill and the effect of the bill has been substantially lessened or narrowed.

Basically, what the bill would give the city the authority to do is to pass bylaws designating certain areas of the city as special demolition control areas. Once such a bylaw is passed, an owner of a property would not be able to demolish a building unless they obtained a permit from the city council, and the city council could potentially use the permit method to require the property owner to make what are called beautification measures. Really, they are provisions to screen the property or to landscape the frontage of the property so that it does not become an unsightly property during the period while it isn't occupied by a building and in use.

The act provides that, first of all, before council passes a bylaw, it would have to give notice and hear from the public. The act provides that anyone who was dissatisfied with the refusal of council to issue a permit or was dissatisfied with a condition imposed by council on a demolition permit would have the right of appeal to the Ontario Municipal Board.

What the act does provide are substantial penalties if the property owner demolishes a building without obtaining a permit, but that's the only time the substantial penalties apply. If a person enters into an agreement with the city to do certain beautification works as required by the council's approval, and then fails to do the work, the remedy that council is given by this act is to do the beautification measures, do the landscaping, do the screening works, and charge the cost back to the property owner. But there's a maximum cap on the amount the city can charge back, and that's \$30 per foot frontage, which I would submit to committee is a very minor cost, and that is in a sense the protection to the property owner. It's a very minimal charge we're seeking.

We're simply asking for the authority that if a property owner is going to demolish a building and leave the property vacant for more than a year, which is in the legislation, the city can require that they take certain measures to screen that property and to beautify the frontage so that it doesn't become an unsightly property and have a deleterious or negative effect on our commer-

cial areas or industrial areas or our residential areas, if those are the areas designated by council.

The Chair: Are there any interested parties who wish to come forward? Please take a seat at the desk and introduce yourself.

Mr Tony Romanelli: Madam Chair, committee members, my name is Tony Romanelli. I do not reside in the city of York. I have some property interests there and I was raised in the city.

I didn't prepare a big position on this. I wasn't sure of the format here, but I can respectfully suggest that up till now—I've been sitting here all morning—this is the most important thing that has come before you. I am of the opinion that it's a veiled attempt to control demolition in the city of York in order to maintain the tax base.

There is no other municipality or city in the province of Ontario that has this legislation. The city of Detroit tried it. I don't know if any of you have been there lately, but property owners not being able to demolish their buildings and not having revenue coming in and still having to pay the municipal taxes had no other choice than to walk away from the building. Similar things happened in some of the adjoining areas to New York City proper.

There are already bylaws on the city of York books to ensure that one must get a demolition permit. There are further bylaws, property standards bylaws and lot standards bylaws, that allows the city to clean up any debris etc left behind and add it to the municipal tax bill, much the same as the gentleman here wants to do with his boulevard parking, which was quickly passed by the members here. I was going to object to it but I didn't know it was before you members today, and I figured I would keep my objections to this matter only. I didn't want to sound like a chronic complainer.

I'm sure you all will agree with me that before you knock down your property, whether it be your house, your business or your factory, it's considered very, very carefully by the owner of that property. No one knocks down a building for fun.

I must reassert that I feel the real purpose of this legislation is that the city of York has become somewhat an artificial entity. It has the highest tax rate in North America for similar-sized situations. When we moved there from the city proper in the 1940s—I say the 1940s because my dad bought the land and then built and we didn't actually move in one year—it was at the end of the streetcar line. There were literally thousands of acres, at least hundreds of acres, of vacant land. I guess there were a lot of reasons for a separate entity. If you went back a hundred years before that when we weren't dealing with fax machines and electronics and we were dealing with the horse and buggy etc, I guess the people wanted local representation.

The problem is going to solve itself no matter what kind of legislation any level of government passes. They may be able to forestall the inevitable, but the situation that exists, even in other municipalities in Ontario where they enjoy major municipalities, cannot be sustained.

The Chair: Does that end your remarks?

Mr Romanelli: Yes. I just want to stress that I have no objection whatsoever to the city incorporating into its present bylaws the right to charge or assess \$30 per lineal foot of frontage, in order to put up a fence, what they call beautification. That is a very reasonable amount, but it's a secondary issue designed to take one's eye off the doughnut and look at the hole.

The Chair: Thank you, Mr Romanelli. I ask Mr Hayes to present the Ministry of Municipal Affairs perspective.

Mr Hayes: The Ministry of Municipal Affairs does not object to this application if subsection 2(4) is amended.

The Chair: I believe the applicant is aware of what the amendment reads.

Mr Bartlett: Yes, Madam Chair. We have no objection to that amendment.

The Chair: I'm wondering if Mr Romanelli has a copy. You've received one. Have you had a chance to review it?

Mr Romanelli: No, I have not, Madam Chair.

The Chair: In the interim, I have three members who wish to ask some questions. First, Mr Mills.

Mr Mills: I just wanted to advise you, Madam Chair, that I will be moving that amendment.

1040

Mr Hansen: Mr Romanelli, you're in the wrecking business?

Mr Romanelli: No, I'm not. I'm just the opposite: I'm in the construction business.

Mr Hansen: Okay. I didn't know whether you were involved in wrecking. Are you out of Hamilton?

Mr Romanelli: No. As a matter of fact, my office is in the city of York.

Mr Hansen: It is? You don't own property in Beamsville, then.

Mr Romanelli: No, I don't.

Mr Hansen: Okay. I've mistaken you for another gentleman.

Mr Romanelli: That's all right.

The Chair: Mr O'Neil is next on the list—he's just coming back—and, if members don't have an objection, after Mr O'Neil asks his question, I'd like to ask one.

Mr O'Neil: Sorry, Madam Chair. I got a phone call I had to go out for; I may have missed some of the questions that were asked. I just wondered if Mr Romanelli has had a specific problem with York on this; in other words, why you're objecting.

Mr Romanelli: Honourable member, the city of York has had no specific problems requiring this legislation. They are calling it preventive legislation. I think you were out when I made my comments earlier. There is no municipality in Ontario that has this kind of legislation. I don't know if there are any in Canada.

As the honourable member Mr Hodgson suggested earlier, why is this in the form of a private member's bill anyway? Why does the city of York want unique legislation? There are much bigger urban areas, much bigger

cities that have not found it necessary to have this kind of legislation. What is the purpose? If the province wants to amend the laws so that municipalities can control legislation, then let the province amend the laws. Do you want the city of Mississauga coming here next week to ask for similar legislation and then Sudbury etc, as Mr Hodgson, rightly I believe, suggested? This is my first time appearing here, I'm a strict amateur at this, but this is not a private member's bill.

Mr O'Neil: I would ask both the ministry staff and again the city to comment. Is there similar legislation anywhere else in the province? If there is, where is it, and if there isn't, why isn't there?

Mr Hayes: There is similar legislation, in the city of Windsor, for example, in an act which was passed in 1982. That act was intended to address a specific problem: It was dealing with the downtown core demolition and was restricted to the business improvement areas of the city of Windsor.

Mr O'Neil: That's the only other one?

Mr Hayes: Yes.

Mr O'Neil: Why is it that Windsor and York have asked for it if none of the other municipalities across the province have it?

Mr Hayes: If you would like to address that, just give your name for Hansard.

Mr Paul Murray: Paul Murray; I'm a solicitor with the ministry.

I can't speak to why the city of York is proposing this legislation. Perhaps the applicant can. But in terms of speaking to it, the city of Windsor is the only city I'm aware of that has similar legislation; as Mr Hayes noted, it was tied to areas that were designated improvement areas. This one is more restricted in some ways than the city of Windsor one, which didn't place limits on the amount that could be spent on the beautification. That was one point that was specifically addressed in this bill, so in that sense it's more restricted than the city of Windsor one in terms of the amount that could be spent.

Mr O'Neil: Then I'd ask the city, if we only have Windsor and you're the second one in the province, why it is you feel you need to bring this legislation forward.

Mr Bartlett: Mr Romanelli suggested that the intent of this legislation was really to prohibit demolition. The staff report that went to council that suggested we apply for this legislation made it clear that was not the intent. The city sees demolition of obsolete industrial buildings and buildings that are no longer functional as a proper means of revitalizing our industrial areas.

What we're concerned about is when a building is demolished and the property remains an eyesore. In terms of problems that triggered this, the one that was brought to my attention was the property on Lawrence Avenue in the city, the CCM property, as it was then called, that sat vacant for years and was a real eyesore in the community and destroyed, in effect, the whole Lawrence Avenue strip in the city of York while it was left vacant. In a sense, this is preventive legislation.

Now, I think for tax reasons primarily, there seems to be an incentive for property owners to demolish buildings

more often than they did in the past. What we are concerned about is that when they are demolished, for whatever reason—it may be for tax reasons that they're being demolished—that the property not become an eyesore like the CCM property did. Yes, other municipalities have not applied for it to date except for Windsor. Others may come forward in future as they experience the same problems and as the tendency towards demolition maybe continues.

All we're seeking, though, and it's clear in the background reports to the legislation—we're not trying to stop the demolition; we see that as a way of revitalizing our industrial and commercial areas. What we want is to ensure that if a property is demolished such as the CCM property was and left vacant for a considerable length of time, some measures be taken so it doesn't become an eyesore and have adverse impacts on abutting properties.

Ms Poole: I want to respond briefly to Mr O'Neil's question. I haven't discussed this with Mr Bartlett so he's free to correct me at any moment. In Metro we have a particular problem with high taxation of our commercial-industrial properties. Part of the problem is that if there is a vacant building they are not given favourable treatment; taxation still goes on for those properties.

If, because of the high taxation, a company has decided to move out of the city of York or the city of Toronto to one of the outlying areas, it becomes prohibitive for it to maintain that building, and in many cases the buildings are obsolete anyway. There is a very real possibility that there will be a number of these buildings demolished within the coming years. As Mr Bartlett has I think quite rightly pointed out, they've had one instance in the city of York of a property that was demolished and the property left in quite bad condition. I think this is preventive medicine, and I anticipate, given the exodus we've been experiencing in the downtown core of Metro of a number of our industrial property owners, this may be a real problem in years to come.

Mr Wessenger: I have a couple of questions. First, what are the problems with controlling this by means of property standards bylaws?

Mr Bartlett: On vacant properties, I understand the authority under the Planning Act is restricted to maintenance. If you've got a vacant piece of land, I do not read that legislation as giving us the authority to require it to be screened or the frontage of it to be landscaped. That's what we're seeking in this legislation.

Mr Wessenger: I haven't read the legislation that carefully, but what about the instance where you're seeking a demolition permit in order to construct a new building? Is there something in here that would mean it would not apply in that situation? It would seem like your time frame of 365 days would be somewhat short if you were demolishing a building and then intending to construct a new building.

Mr Bartlett: Clause 4(b) would exempt the property owner who holds the building permit for a new building to be erected on the site.

Mr Wessenger: So if there's a new building permit taken out, this doesn't apply.

Mr Bartlett: That's correct.

The Chair: Seeing no one else, I think now is my opportunity to ask a question. It stems to some degree from what Mr Romanelli had raised about the control of demolition and establishing particular zones. I'm wondering what those zones are. Those members around this table who are regular participants would know I personally have some concerns relating to heritage.

Ms Poole and Mr Bartlett, you both have mentioned the fact that this relates much more to industrial sites than to, say, older residences, but in fact some buildings of the industrial or commercial variety can definitely figure into heritage considerations.

When you're talking about establishing a demolition zone, what are you referring to? Are there direct strips of the town where you are saying, "This is an area where you can get a speedy demolition permit," or are you looking at a different process for developing, demolition and reconstruction, and heritage as well? I obviously seek your input, Mr Bartlett.

1050

Mr Bartlett: In terms of heritage, under the Ontario Heritage Act currently there are controls on demolition and this in no way—

The Chair: Very limited.

Mr Bartlett: Yes, but this in no way supersedes those or replaces those or is in lieu of those. This legislation, as drafted, doesn't apply to a particular area. It gives council the authority after a public hearing to designate an area as an area to which the bill would apply.

As indicated, the report that led to the request for the legislation was a report dealing with industrial areas, because that's where the pressure is right now. As indicated, the CCM property was industrial property that was left vacant for a considerable number of years. But the legislation isn't restricted to that.

From our experience in commercial areas, when buildings are demolished they're quickly followed by other commercial buildings going up, so that to date it hasn't been a problem in those areas. Similarly, in residential areas of the city, experience is that when a property is demolished the land doesn't sit vacant for a long period of time. But in future, if a problem develops in those areas, the council would have the authority under this legislation to go through a public hearing process and, if considered appropriate, to designate one of those areas as similarly covered by the bill. But it was an industrial area concern that led to the legislation.

The Chair: Mr Romanelli, did you want to—

Mr Romanelli: Yes. I want to make it clear that I don't believe that Windsor has parallel legislation. To say that they have similar legislation doesn't clarify this matter to me very much. I don't quite know what the similar legislation entails.

The gentleman here keeps referring to the CCM property. The city of York neighbours have what they call a lot standard bylaw which gives them—and I'm sure the city of York has it—the power to go in and clean up a lot and add it to the municipal tax bill. As far as the beautification portion of this proposed legislation, there's

obviously nothing wrong with that. There would be nothing wrong with asking for a letter of credit for \$30 a foot per frontage before a demolition permit was issued. That would cover the area. They may already have that power.

So I don't want to see the members here get sidetracked, thinking that all this is is somebody is going to knock down their building, they're going to leave a pile of rubble. If the only history of this problem is the CCM property, which I drive by many times—it was a vacant lot; the supply and demand created a vacant lot. There are going to be a lot of vacant lots.

General Motors out in Scarborough just found it necessary to knock down a million square feet because they couldn't afford—I shouldn't say couldn't afford; obviously they could afford. They didn't want to pay the \$2-million- or \$3-million-a-year taxes. In one demolition, 3% of Scarborough's tax base was wiped out. I don't want to see it; you don't want to see it; nobody wants to see that kind of thing happen. Nevertheless, you don't want to pay another few dollars for an automobile either because General Motors has to pay taxes on an empty building.

General Motors, being a good corporate citizen, went to the planning department in the municipality in Scarborough and said: "Here, take the property. You can have it. See if you can find a tenant. See if you can find redevelopment. You don't have to pay us anything. But we have to get this tax burden off our back." That's why the increase in demolition is coming.

A client of mine, and I don't want to mention names here, did a similar thing in Etobicoke. It was a major decision whether they were going to stay in Canada at all. They had a million-dollar tax in addition to insurance. Has any one of you ever tried to get insurance on a vacant building? There's not an insurer out there that's interested in insuring an empty industrial building.

The legislation says if you don't like the position of the city you can go to the OMB. I'm sure you people have at least some experience with somebody else who went to the OMB. You can spend a lot of money and you can spend a year. As a matter of fact, I understand now that the OMB is so busy you may not get there for two years. So if Mr Smith goes in for a demolition permit in the city of York and they say, "Well, I'm sorry; you have to appear before a council. This is a demolition control area," and in the legislation it says the city may designate any part of the municipality or, for that matter, it says the entire municipality as a demolition control area, now what in the heck does that mean? I have no training in law. Some of you members do. Tell me what that means. "May designate the entire municipality as a demolition control area." What does that mean?

The Chair: I will pose the question to Mr Bartlett, since he's sitting beside you and he's probably in a better position to answer it. I'm only a librarian. Mr Bartlett's a lawyer.

Mr O'Neil: Never say "only."

Mr Bartlett: My understanding is that's standard wording that basically says council could designate the

whole municipality or it can designate particular parts of it, and the discretion is with council. As I indicated, I wouldn't anticipate that when council exercises its authority it would do it city-wide, because the concerns are area-specific and they would presumably exercise it to do it by part of, applicable to part of, a municipality. But the municipality could designate the whole municipality and then make it applicable to all if they perceive the problem to be that wide.

Mr O'Neil: Madam Chair, why don't we go ahead with the vote on it?

The Chair: Okay. That's fine. Are all members ready to vote?

Shall section 1 carry? Carried.

In the absence of—well, Mr Mills, yes. Mr Mills, you have something—

Mr Mills: Yes. I have a motion pertaining to subsection 2(4), Madam Chair, and I'll move that now.

I move that subsection 2(4) of the bill be struck out and the following substituted:

"Changes to bylaw

"(4) If a minor change is made in a proposed bylaw after the holding of the meeting mentioned in subsection (2), the council may determine that no further notice is to be given in respect of the proposed bylaw and the determination by council in that regard is final and not subject to review by any court."

I think that amendment is self-explanatory.

The Chair: All members have heard the motion. All those in favour, please signify.

Shall section 2, as amended, carry? Carried.

Shall sections 3 through 13 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you all for your contribution, including Mr Romanelli. It definitely provides us with some thought in the whole process.

Mr Romanelli: Well, I just hope that you people here, the lawmakers, are not part of the problem instead of the solution.

The Chair: Thank you.

Our next order of business is Bill Pr117.

Ms Poole: Madam Chair, just before you proceed, I'd like to first of all thank committee members for their agreement to pass both Bills 146 and 147, but I'd also like to mention that as well as Mrs Cunningham this morning, Mr Bartlett and I have a kid for a day in our offices. Mine is a young constituent, Brendan Haley, who's from North Toronto Collegiate, and Mr Bartlett has his son Chris with him today, so I'd like to welcome them to the Legislature.

The Chair: Well, I hope that they've found the experience an interesting one, not too boring. This committee sometimes moves a little faster than some, and I hope they realize it's a very hands-on experience for them and

definitely for us to be able to have the students here seeing us in a very real way. Thank you for advising us of their presence.

Ms Poole: Madam Chair, I think the one thing that they did learn today is that time schedules can get shot out the window very quickly. I told them this would be a fairly quick procedure, and we'd probably be in and out in 15 or 20 minutes. Now, two hours later, they've had a real lesson in democracy. I think it's been interesting for them.

The Chair: Maybe you could advise your student friends that in fact we allotted extra time, knowing the pressures of the agenda, just so that we could get all of these bills through. So we recognized work was at hand.

Mr O'Neil: Madam Chair, Bill Pr137: What's happened to it?

The Chair: It's going to come next. We're just going to deal with Bill Pr117 first.

1100

J.G. TAYLOR COMMUNITY CENTRE
INC. ACT, 1994

Consideration of Bill Pr117, An Act respecting The J.G. Taylor Community Centre Inc.

Mr Hansen: Madam Chair, I just want to make sure that Mr O'Neil has amendments to the bill that he can read ahead of time. I hope that all committee members—because we all had the same concern last week and the week before.

The Chair: Yes, right here.

Mr Hansen: Okay.

The Chair: This is in relation to Bill Pr117. There are amendments being circulated. At this point—

Mr Hansen: I think—

The Chair: Excuse me, I'm going to be first. I had called Bill Pr117. I would ask Mr Hope and Mr Knott to come forward and therefore we can move this forward. Now, Mr Hansen, what was it that you had to say?

Mr Hansen: I just wanted to make sure that the members had a chance to read the amendment before we vote on the bill and have a chance—

The Chair: The clerk is circulating it, and at this point, we welcome Mr Hope and Mr Knott back to committee. If you would, Mr Hope, like to make some opening remarks.

Mr Randy R. Hope (Chatham-Kent): Once again, good morning, committee members. We seem to be a normal fixture in this committee lately, as we try to discover ministries knowing what they're supposed to be doing and trying to establish a new direction. It's amazing, when you become a test model, how you try to find out the loops of society. We have had lengthy discussions about this before.

I'm joined today by the city solicitor, Brian Knott, who is getting grey with me at the same time while we try to deal with this situation. I'm sure the committee members are well familiar with what this is all about, dealing with the J.G. Taylor Community Centre, which is an initiative brought together by two community groups, which is going to be working with everyone from infants to adults in

both physical fitness and training and skills development.

My ultimate goal would be that the legislation would be approved as printed, without amendments. I wish I would win a million bucks tomorrow too, but I know that's not going to happen because I have no lottery tickets. I'm not sure if Brian has opening remarks. We'd be more than willing to enter into the discussion quickly, get out of here, and get on with society.

The Chair: Mr Knott, did you have any clarifications to make at this point?

Mr Brian Knott: Thank you, Madam Chair, members of the committee. When we were here last week, the one concern was with respect to opposition by the Ministry of Municipal Affairs and it centred around the lack of approval by the school board. Since that time, through consultation with the ministries of Education and Training as well as Municipal Affairs, the bill has been restructured and what you have before you are amendments to that bill and it's our feeling that they incorporate the necessary changes to meet the approval of the various ministries.

Mr O'Neil: We're handed this stuff, five or six sheets, just a minute or so before we start dealing or even while we're dealing with this, so I guess I'd ask Mr Hayes if he could tell us exactly what they say concisely, or whatever.

The Chair: Mr Hayes, did you want to continue on with the ministerial comments?

Mr Hayes: Yes. First of all, I'd like to say that the Ministry of Municipal Affairs is not objecting to this bill, subject to, of course, these two amendments being passed, and also subject to Mr Hope's determination and hard work, along with Mr Knott here today. But there certainly was the concern from the school boards and we feel that these amendments will certainly address that particular area. I would suggest that someone move the amendment and then we can get into discussion, if you'd prefer it that way.

The Chair: Mr O'Neil, does that satisfy your quest for knowledge?

Mr O'Neil: As long as we're going to have an explanation of what it all means here.

The Chair: You will have every opportunity to ask a question and—

Mr O'Neil: I appreciate that, Madam Chair, and I know, you being the Chair, there'd be no other way to do that.

Mr Hayes: We do have somebody from the Ministry of Education and I would prefer them to explain, if they wish to do so.

The Chair: I believe, Mr Hansen, you wanted to read the motions, but let me call the order of business. We will begin the vote relating to section 1.

Mr Hansen: And the preamble, Madam Chair.

The Chair: The preamble is further down the list. Okay?

Mr Hansen: I just want to make you aware that I do have some changes here that I want to put on the record.

The Chair: I have the cheat sheet, so I know exactly

which one we're calling here. So, section 1: Mr Hansen, are you going to read the motion, please?

Mr Hansen: Okay. I move that section 1 of the bill be struck out and the following substituted:

"Taxes cancelled

"1(1) The council of the corporation of the city of Chatham, referred to in this act as the corporation, may pass bylaws cancelling the taxes payable for municipal purposes, other than local improvement rates, on the land, as defined in the Assessment Act, owned by the centre and known municipally as 177 King Street East in the city of Chatham if,

"(a) the land is owned, occupied and used solely for the purposes of the centre; and

"(b) the centre is a registered charity within the meaning of the Income Tax Act (Canada).

"Conditions

"2(2) A tax cancellation granted under subsection (1) may be subject to such conditions as may be set out in the bylaw.

"School boards

"(3) If a tax cancellation bylaw is in effect, all school boards having a territorial jurisdiction over the land described in subsection (1) may, by resolution, direct the corporation to cancel the taxes payable on the land for school purposes.

"Notice

"(4) A school board that passes a resolution under subsection (3) shall forward a copy of it to the corporation, the Minister of Education and Training and any other school board with jurisdiction over the land described in subsection (1).

"Further cancellation

"(5) If the corporation receives a resolution from all school boards having jurisdiction over the land described in subsection (1), it shall, by bylaw, cancel the taxes payable for school purposes on the land defined in subsection (1).

"Duration

"(6) A bylaw passed under subsection (5) shall remain in effect so long as all resolutions passed under subsection (3) remain in effect.

"Notice

"1.1(1) The clerk of the corporation shall notify the assessment commissioner of the contents of a bylaw passed under section 1.

"Collector's roll

"(2) The treasurer of the corporation shall strike from the collector's roll each year that portion of the taxes that is no longer due and payable by reason of a bylaw passed under section 1.

"Chargeback

"1.2 For the purposes of section 421 of the Municipal Act, the entire amount of taxes cancelled by a bylaw passed under subsection 1(5) shall be charged back in each year to the school board to which they otherwise would have been payable.

"Retroactive

"1.3 A bylaw or resolution passed under section 1 may be retroactive to January 1, 1994."

The Chair: All members have heard the motion. Is there any discussion? Mr O'Neil.

Mr O'Neil: The basis of this whole thing is that you have a community-based social, education, recreational centre which is for the good of the community, and because it's for the good of the whole community then all of the taxpayers share in the benefits of this community, so they're saying that they're not going to be charging them taxes. Is that not right?

Mr Hope: No.

Mr O'Neil: Well, explain it to me, then.

Mr Hope: That's not right. What this legislation says is the corporation is allowed to, is going to by resolution, pass a bylaw that says that they will not collect municipal taxes. What this is saying is that the school boards, whether they have moneys going to that school board or not, have a right to object to the exemption. So you're giving the school boards autonomy to make a determination whether they want the money from that property or not. It's not a matter of the explanation that you gave.

1110

Mr O'Neil: I guess my only problem then is, one year down the road from now the school board could say, "We want the school taxes from it." Is there not a danger there in the bill the way it's worded where you're trying to get a tax exemption from everybody for this? You're still leaving in the clause that the school board can step in at any future date and collect the taxes on it. You're depending upon the goodwill of the members of the school board as to whether or not you have that. If that is really what you want—

Mr Hope: What I would like is the original bill that was presented forward, but you're asking legal and technical questions. I'll ask those at the behest of the beholders who've written this thing—you talk about the brackets; we had to go over it—through Mr Hayes, through the legal branch of the Ministry of Education or whoever the drafters were of this, to explain their position on this.

The Chair: Mr Hayes.

Mr O'Neil: If I may finish before Mr Hayes starts, if you don't mind—

The Chair: I was just trying to get one question and an answer.

Mr O'Neil: —I guess what I'm saying is, they're asking for certain benefits which the original bill asked for, and I'm asking, have the ministry staff come up with a loophole for them that could possibly in the future backfire on what they want? Maybe Mr Hayes can include that.

The Chair: Mr Hayes, if you would then respond.

Mr Hayes: My understanding, and of course I can let staff respond further on this, is that even without this, the municipality can certainly rescind any bylaw that's passed here. That's my understanding. They have the right to do that even without having any amendments that affect it.

If you'd prefer staff to respond, I'm sure they'd be glad to, but any municipality can just withdraw any bylaw. If we passed a bylaw yesterday and they chose to rescind it, they have the power to do that.

Mr O'Neil: I guess what I'm trying to do is to go along with what the applicants are asking for so that they're not hit with this later down the road or something.

Mr Hope: Mr O'Neil, to your concerns, the city of Chatham has agreed that they will totally exempt the property taxes from that. Where we're running into a problem is going back to the local boards. Whether they get money from that property or not, having the right to object raises some concerns.

I made it very clear what we would like, but what we would like and what we get are two different things. We're trying to make sure that this bill doesn't get lost, doesn't get defeated. We're working with the direction of the ministries to try to put something in place.

The comment that you asked, do we have to go back to the school boards each year and ask for exemption permission from those school boards, I would go through Mr Hayes to the legal people to answer that question for you.

Mr O'Neil: That's the question.

Mr Tom Melville: The bill as amended would provide, as you suggested, a mechanism whereby the school boards could revoke their consent to their portion of the cancellation of taxes. That is consistent, as Mr Hayes implied earlier, with the existing power of the municipality to repeal a tax exemption bylaw.

Mr O'Neil: I guess then what you're saying is you would have preferred the first bill. We have this second bill now with the changes that have been brought in. You're not happy with it, but it's better than nothing and you'd be satisfied with it going ahead the way we have it here today.

Mr Hope: Yes. We've been here trying to put this thing through since June, while people try to decipher a policy direction and what this new formula will look like, which they want to implement across in this private members' time, for these non-profit groups who are coming forward asking for municipal and education tax exemptions. They've been having a difficult time coming up with that. We've come up with something we don't agree with but we have to live with.

We'll take our chances with our local school boards in our area. They are cooperative. One thing I've got running for us in this whole legislation is that Mr Hayes and myself both have school boards that work very cooperatively together. Let's hope that common sense prevails in decisions that are being made by those local school boards in my area and Mr Hayes's area.

Mr O'Neil: I understand the bill we have following is a similar type of bill that we'll be dealing with. That's all I had.

The Chair: I must advise members there is a technical issue that we have to address. Typically, in a situation like this where you have sections separated—and this one wasn't necessarily appropriately separated—we will have

a vote on section 1, a vote on section 1.1, a vote on sections 1.2 and 1.3. They normally would have been separated and highlighted in heavy type but that is not what happened this morning, so at this point we will separate out the motion and have a vote on section 1 only.

All those in favour of the amendment to section 1? Agreed.

Section 1, as amended, please. All those in favour, please indicate. Agreed.

All those in favour of section 1.1, a new section? Agreed.

All those in favour of section 1.2, please indicate. Agreed.

All those in favour of section 1.3, please indicate. Agreed.

All those in favour of sections 2 and 3, please indicate. Agreed.

The preamble, Mr Hansen.

Mr Hansen: I move that the preamble to the bill be amended by striking out "to enable the council of the corporation of the city of Chatham to exempt the land owned by the centre from taxation for municipal and school purposes, other than local improvement rates," at the end, and substituting "to enable the taxes payable for municipal and school purposes on the land owned by the centre to be cancelled by the council and the school boards."

The Chair: All members have heard that motion. Any questions?

Mr O'Neil: Just a point here: Why do they say "except for local improvements"?

The Chair: Mr Melville, did you want to respond to that, or Mr Hayes?

Mr Melville: I can only say that many other tax bills exempt local improvement rates from the exemption as well. It's consistent with the past structure of tax exemption bills.

The Chair: All members, are you prepared to vote on the motion?

All those in favour, please indicate. Agreed.

Any opposed? Seeing none, carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Mr Wessinger: Did we pass the preamble or just the amendment to it?

The Chair: I will rephrase that, thank you, Mr Wessinger.

Shall the preamble, as amended, carry? Carried.

Shall the title carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Agreed.

Mr Mills: I have a motion, Madam Chair.

The Chair: Please place your motion.

Mr Mills: I move that the committee recommend that the fees and the actual cost of printing at all stages and in the annual statutes be remitted on Bill Pr117, An Act respecting The J.G. Taylor Community Centre Inc.

Mr Hansen: If it doesn't pass, Mr Hope is going to pay for the bill.

The Chair: It's about \$662.

I would ask members, since they've heard the motion, all those prepared to vote?

All those in favour of the motion as read? Agreed.

Any opposed? Seeing and hearing none, that's carried.

I hope that, despite several trips, this meets with your satisfaction.

Mr Hope: No, it doesn't meet with our satisfaction.
1120

Mr Hansen: Oh, come on, Randy.

Mr Hope: I'm being honest with the committee. It does not meet with our satisfaction. Yes, it's been very difficult, but we accept what has been given to us.

The Chair: Well, maybe you should have a discussion with Mr Knott, because he in fact—

Mr Hope: I guess beggars can't be choosers.

Interjections.

The Chair: No, it's not worth it. Thank you, Mr Knott, for your approval of our work.

Mr Hope: Pity you didn't tell us ahead of time.

The Chair: We have a piece of information from the ministry regarding the Ministry of Education and Training. That was handed out to members. Mr Hayes, continue.

Mr Hayes: The request is, Madam Chair, would it be the committee's wishes to have this explained by the Ministry of Education and Training, their position on property tax exemptions?

Mr Hansen: We read it already, Mr Hayes.

Mr Hayes: You did? Thoroughly? And everybody understands it? That's good to hear. Thank you.

Mr Hansen: You can talk to Mr Hope at the back of the room.

LUNG ASSOCIATION, OTTAWA-CARLETON REGION ACT, 1994

Consideration of Bill Pr137, An Act respecting The Lung Association, Ottawa-Carleton Region.

The Chair: Our next order of business is Bill Pr137, An Act respecting The Lung Association, Ottawa-Carleton Region. Mr McGuinty, if you would like to come forward with your applicant. The normal order of business here, although things don't always happen in a normal manner here, is that you make some opening remarks and introduce your applicants at the same time, then turn it over to them.

Mr Dalton McGuinty (Ottawa South): Thank you, Madam Chair, and thank you, committee members, for considering this matter.

Interjections.

The Chair: Order, please. Allow the sponsor to make his remarks.

Mr McGuinty: What I propose to do is just simply state that I am very pleased to sponsor Bill Pr137, An Act respecting The Lung Association, Ottawa-Carleton Region, and to introduce my colleagues who are with me here today, and then to allow them to make some brief opening remarks, if that's acceptable.

With me is Dan Bordeau, who is executive director of the Lung Association, Ottawa-Carleton Region, and Dean Karakasis, who is the volunteer president of the association. I might add as well that this bill—I did not have a chance to look at the one you just finished considering, but this one is quite similar in nature. With that, I will allow Mr Bordeau to begin.

Mr Dan Bordeau: As executive director, I am the staff person for the Lung Association and of course, being a volunteer, non-profit charitable organization, our board is run by volunteer members. With me today is our local president, Dean Karakasis, and Dean will be speaking on behalf of our association.

Mr Dean Karakasis: Madam Chair, I am not a kid coming to work for a day, but allow me to say that I have enjoyed this experience and I certainly got a lot out of it and I will report back to the board as such.

Mr O'Neil: You may get more experience too, before you're done here.

Mr Karakasis: I suspect so. The Lung Association is an organization that has been around since 1908, not always in its current name, but we are a non-profit organization dedicated to the improvement of respiratory health through fund-raising activities, support of medical research and our Lung Association community health programs.

We see ourselves as an organization that has always prided itself as being a partnership organization. We work very hard at fund-raising. We are best known for the Christmas seal campaign. We use that fund-raising to do many different activities, as I say, mainly in partnership. We see ourselves as being partners with the health field, to try and take the burden out of the health care system when it comes to having a place for people to come, not only just for information but for some physical treatment and for guidance and information and support groups.

We work with the educational system to go into the schools and run programs to help children understand the need not to begin smoking and understand the respiratory problems that arise from that. As such, we like to think of ourselves as investors in our communities and we use partner organizations to help accomplish our goals.

We're here today on a matter very similar to the one just passed. We're not privy to the pieces of paper that were flying around, so I don't know what wording was used, but the legislation that has been crafted on our behalf tries to set a platform for discussion with three local areas for a tax write-off of property taxes that are associated with our offices on Raymond Street. I'll point out that within the entire Lung Association body, there are only two organizations, two associates, within the 30-odd that have offices. So we're pretty unique that way.

Our goal is to use that funding now, if we could have tax write-offs, to help enhance our programs, again in

partnership but this time in partnership with—the legislation has gone forward recently from this government to help try and stem the tide of rising pulmonary problems within the province and the country as a whole. Our investment in our school system and school programs is about \$14,000 a year. We feel that the need for the legislation that has brought the price of cigarettes down and what not needs to be propped up on another side, which is more education and more contact with young people in the schools. That's why we've put forward the request that we are doing.

We have already received approval from the city of Ottawa and the support of the mayor of the city of Ottawa for our proposal. We do not have at this time the support of the region, which has said that they are happy to have us come to committee to present, or the school boards. The letters from them have suggested they are looking for some sort of feedback at the provincial level. As such, the legislation was crafted in a way not to create a dictate to these organizations as to what to do, but simply to set up a foundation by which we can negotiate with them at a local level.

Mr O'Neil's comments are very true with us as well, that we will have to go through that process, but because we are a partnership organization and we work with these organizations, we feel that we're not at risk that way and we feel reasonably comfortable with approaching it in the manner that we have. That's all I have to say as sort of a preliminary statement towards this legislation.

The Chair: Thank you, Mr Karakasis. At this point I must ask if there are any other interested parties who wish to come forward on this matter. Seeing none, I would ask Mr Hayes to give his input.

Mr Hayes: The Ministry of Municipal Affairs does not support the association's request since it does not at the present time meet all the ministry's criteria. Specifically the support from the region is not there, and the school boards. At the same time, the committee should be aware that this bill would represent the first such tax exemption for a health organization, and there is concern about a flood of others maybe following behind on this. So at the present we do not support this application.

Mr O'Neil: Again, when the previous applicants came before us, you didn't agree to that either. We said to them, "Go back and we'll give you a week and you get those approvals from the people you're dealing with, the school boards and the municipality, and we'll do up the papers." You did whatever you had to do, and they came back with not what they wanted but giving them the go-ahead within a certain perimeter. Are you saying that this could possibly be treated the same way?

Mr Hayes: Yes, it could be.

Mr O'Neil: We knew this was coming up today and we knew that they'd be turned down just as the other case was. Why didn't somebody get in touch with them—you did?—and say, "Bring these approvals today and we'll do up the amendments, so we can get it approved and through today"? I wonder why that didn't happen.

Mr Hayes: For the record, the applicants were notified, yes.

Mr O'Neil: So I guess I'd ask the applicant, if you haven't been able to get that yet, can you get it so that you could maybe appear before us next week?

Mr Karakasis: I guess we have a little bit of a chicken-and-egg here. We have a letter from the superintendent of business and finance for the Ottawa Board of Education which says, "In response to correspondence received from the city of Ottawa requesting...support for this legislation... 'correspondence from the city of Ottawa...re tax-exempt status for the Ontario Lung Association be received.'" That's the only position they would take on it.

1130

They further say, "This means that the board did not take a position of either support or non-support of this request." When contacted, the implication to us was, they're waiting for some sort of provincial—I don't know if guidance is the right word. As such, the legislation was crafted in a way to simply create a platform for that discussion. As I said, we have one of the three parties already in agreement, and if I only got that, that would be something of value to my organization.

Working with the school board, if we can get them to see the pros and cons of what we're doing, they have the opportunity of going from zero to 100% in terms of their exemption. That too I'm willing to negotiate. Our investment into the school board right now is about \$14,000; the tax bill is about \$8,000.

On a profit-and-loss statement alone, I think we can convince them that our service is valuable. By doing the legislation the way we've done, all we've done is set up a platform for that discussion. If the committee wants us to go back and get their permission first, then we just sort of go back and forth that way. The legislation doesn't force anyone to do anything and, in many ways, it just creates what we think is a conducive, broad-based scenario for discussion.

Mr Bordeau: If I may, just to add to my president's statements, when I did communicate with Mr Hicks at the school board, he made it very clear that traditionally the local school board did not deal with this matter. It was very much him saying, "Get a direction at the provincial level for me to be able to talk to you and to actually be able to negotiate a write-off."

So that's why we came forward with this position, knowing that the local school board is not going to be wanting to take a position either way until they get some direction, and we're hoping that through this bill, that direction will be given to at least enter discussions.

Mr Mills: I always like to be consistent in most things that I do, and I'm going to be consistent in the position that I adopted in this case and the case before. I think that we're hanging ourselves out to dry if we pass this bill without the support of the region and the school boards. They're elected people and they have a right to make those decisions. You get that first and come back and I'll be very supportive; without that, I can't be.

Mr Hansen: Sitting next to Mr Mills there, he must have read my mind because I was going to say exactly the same—

Mr Mills: Great minds think alike.

Mr Hansen: So Mr Mills has already made my comments.

Mr McGuinty: I just wondered if I might, just so that it's on the record, one of the things that Mr Mills indicated was that we would be setting some precedent, I think, in terms of granting special benefits to a health organization.

One of the things I got from the city of Ottawa ahead of time, because I thought that it was a rather unusual request to seek exemption or tax write-off, depending on how you want to term it, for an organization—they told me then that in fact there are a number of organizations, just so that Mr Hayes is familiar with this. In Ottawa we have exempted our Arts Court, the National Capital Children's Oncology Care centre, the South Ottawa Services Foundation, which is Rotel, Ottawa Little Theatre, the Canadian Bible Society, the Jewish Community Centre, and oddly enough, the St Georges Tennis Club.

Just so this is on the record, these people are involved in an effort to address lung problems and they are acting in effect in concert with a piece of legislation put forward by your government in which I take a great deal of pride, the Tobacco Control Act. They are working in concert with that effort to reduce smoking, particularly among young people in this province.

I'm not clear as to something—maybe the parliamentary assistant can confirm this for me—were these gentlemen notified of your ministry's position?

Mr Hayes: Yes, they were.

Mr McGuinty: I think it was verbal.

Mr Hayes: Does staff want to respond to this? I'd appreciate it.

Ms Lynnette Coy: My name is Lynnette Coy. I'm with the Ministry of Municipal Affairs. Yes, the organization was notified. We faxed them the criteria that the ministry uses for the—because of time constraints, we couldn't send them a formal letter from the minister.

The Chair: Thank you, Mr McGuinty, and we have Mr Mills and then Mr O'Neil. Mr Mills, you were on the record. You wanted to speak?

Mr Mills: Okay. I thought you said Mr McGuinty first. I just want to put it on the record, Madam Chair, that my opposition to passing this is, as I said, permission from other elected bodies. I have great empathy with the Lung Association. I too am a great proponent of our government's anti-smoking legislation and I've let that be known in the House, in my riding, so don't misunderstand me that I'm not in support of this organization, very much so, and I commend you for your work in the schools. Thank you.

Mr O'Neil: Could I ask the Chair or the parliamentary assistant to spell out for this group what it is they should do, and if they do it or get it ready, can we deal with it next week?

The Chair: At this point I would ask Ms Coy or one of the other ministry staff to come forward and outline what in fact has to be done in order to bring this forward.

I think members should know and someone will have to move a motion of deferral. Again, your name is?

Mr Mike Riley: Mike Riley.

The Chair: Mr Riley will speak on behalf of the Ministry of Education.

Mr Riley: Yes, I'm counsel with the ministry. We see this bill as being very much in the same position as the preceding bill was last week. We do have concerns, the same concerns in respect of this legislation as we did with respect to the J. G. Taylor Community Centre. Those centre around, firstly, the ability of a municipal council to have a power of decision over what is a school tax base, and secondly, the exporting of the tax burden both from one municipality to the others within the school board and also from one school board in effect to all other school boards in the province.

As far as what's needed, I should inform the committee that after last week's meeting, there was a fairly extensive round of discussions held between policy and legal staff of our ministry and Municipal Affairs, which resulted in the motions to amend the earlier bill that you dealt with earlier. We see this as significant progress and we of course supported that. I think there's further work to be done, but we are in the process of getting these into a form that is really satisfactory in all respects. However, we need sufficient time to do the necessary consultation and seek the necessary approvals to finalize it.

I would say to the applicants that certainly we'd offer to work with them towards the motions necessary to put the bill in a form that would eliminate our concerns.

The Chair: Mr O'Neil, does that answer your question?

Mr O'Neil: Yes. The only other concern I would have, you know whether it's feasible or not, that we will likely finish up next Thursday, a week tomorrow—

The Chair: In fact, if I may at this point provide you with some information as the morning has evolved and we have dealt with the business in a timely and expeditious manner, I have asked the clerk to get a sense of what is on the table for us to deal with next week. In fact we have a couple of revivals of corporations and we also have a series of tax exemptions, and in light of some of the discussion that we've had, I think we should probably start at 9. That would be my recommendation, and in light of the kind of work and discussion that goes on around these bills, I think in that three-hour time frame we could in fact complete our work and possibly deal with this as well.

If members are satisfied with that, they can move a motion for deferral to allow the consultation to continue. Mr O'Neil.

1140

Mr O'Neil: And maybe away from this specific bill, but are you saying, Madam Chair, that next week we may have a couple of similar bills? I wonder rather than do the same discussion and then have them come back whether the ministry staff—I know they're very busy—should maybe be asked to deal with those people so that we don't have the same thing and have people back twice and go through the same thing over again.

The Chair: Thank you, Mr O'Neil. We have two other members on the list: one is Mr Hansen and one is Mrs MacKinnon. Then we'll return to you, Mr Hayes.

Mr Hansen: I would like to move a motion that Bill Pr137, An Act respecting the Lung Association, Ottawa-Carleton, be deferred—I'm not going to say next week, but deferred—to allow time. Either it's going to be next week, if they're ready to go, or when the House comes back, so the bill still lives.

The Chair: That is your motion, then?

Mr Hansen: That is my motion.

The Chair: The motion for deferral has been placed by Mr Hansen, and in his case he has not put a time limit on it. It would be an open-ended process. Mr Hodgson, would you like to speak to the motion?

Mr Hodgson: No.

The Chair: Mrs MacKinnon, would you like to speak to the motion?

Mrs MacKinnon: No.

The Chair: Mr Hayes.

Mr Hayes: Yes, I think. Just for the applicants' information—I'm sure they already know this, but also just keep in mind that you have four school boards that you're going to be dealing with, not two.

The Chair: Mr Karakasis?

Mr Karakasis: If I may, a question from Mr O'Neil was what we could do to make this better, and the answer was, we have to work on the legislation. That's not sort of what brought us here. What we're hearing conflicting back and forth sitting in our offices is people in our cities saying, "We won't do anything until the province does something," and people in the province saying, "We won't do anything until the city does." Someone has to break this for us.

Mr Hayes: Just on that, and I'm not trying to be sarcastic or anything, but in my understanding what happens is, when there are applicants who want to pass a bylaw or private bill, that the criteria are sent to applicants and it's up front what applicants are supposed to do, and it's there.

Mr O'Neil: Don't you think all—

The Chair: Mr O'Neil, just allow Mr Hayes to finish.

Mr Hayes: But when you come before the committee, myself and the staff have to say that these are the criteria—and it's not just directed at you, but others—that you have not met the criteria that are laid out, and part of the criteria is getting approval from municipalities and school boards, for example, and various ministries.

The Chair: Mr O'Neil, do you have a final comment?

Mr O'Neil: Final? I can't guarantee that, Madam Chair, but my comment is—

The Chair: He's smiling at you, hoping.

Mr O'Neil: I think what Mr Hayes says is absolutely correct, that if you go back and tell your people that we've dealt with a similar case, and certain things were asked for and, when those certain approvals were obtained from the boards and municipality, it was approved, and it's the same case likely here, that they

have to give you the approvals before we will deal with it, but previous cases similar to this have been approved.

Mr McGuinty: On a point of clarification, we have six school boards now in Ottawa-Carleton, and I'm just wondering: I guess there are four, in fact, that would touch on this, but do we not simply have to obtain a consent from the board to which taxes are being directed at this time?

Mr Riley: No.

Mr Hayes: The Ministry of Education and Training can address that.

Mr Riley: Our position is that—and first, yes, there are six in Ottawa-Carleton, but in respect of any particular property there can be only four. I understand the property in question here is in the city of Ottawa, in which case the Carleton Board of Education and the Carleton separate board would not be involved, so you have the four to deal with. But yes, our position is that all boards, and this is the position that we have put forward, ought to give their assent rather than simply the one who may, for the time being, be in receipt of the taxes.

I guess the rationale for this is that for non-share capital corporations of this nature, there is an element of choice as to the direction of school support, and in the case of Ottawa-Carleton it could be one, two, three or four different boards, or some combination, and given that element of choice as to school support, we are concerned that there not be a situation developing where one board perhaps may offer an exemption and attract the assessment their way, grant the exemption, that does not lead to some kind of conflict among the boards. So that's what lies behind it, but yes, that's our position.

The Chair: Just as a point of information before we turn to Mr Hodgson: One of the things that has happened in this committee in the time that I have been Chair—and this is to provide some history for members who are not regular members as well—the fact is that in the process of dealing with these bills, whether it's a school board or whether it's a municipality, if in fact a private bill comes forward from an organization and asks for an exemption or whatever but has not gotten all of the necessary approvals, this committee has not approved it. In fact, it has required the applicant to go back and to do its homework.

I'm sorry the situation is evolving the way it is, and obviously the final decision will be as we vote on the motion. But one of the things that definitely occurs on a regular basis is that there is a set of criteria, and whether it's a school board situation or whether it's a municipality situation, the members have indicated a concern. So I hope no one leaves this place and sort of feels that this is only in the nature of a school board. In fact, it is not. There has been a great deal of consistency over the year and a half that I've been involved.

Mr Hodgson: Thank you, Madam Chair. I just have a question of information for the Ministry of Education people, and before I ask it, I'd like to thank them for their response to my query last week. It was excellent. Is there anything in the current legislation which prohibits

a school board from issuing a grant in the amount of their current taxes to an organization such as this?

Mr Riley: Well, I suppose there's nothing expressly that prohibits it, but the result is the same unless there's some authority to provide a grant. In effect, the board—

Mr Hodgson: The board would have to pass a resolution stating that—

Mr Riley: Well, I mean, the statutory authority that would permit them to pass such a resolution, and I'm not aware if they do have that authority, no.

Mr Hodgson: Is there anything prohibiting it?

Mr Riley: Well, no, but unless there's some authority for them to do something, the basic premise is that they can't do it. Being creatures of statute entirely, their powers are set out and governed and limited by in effect the Education Act and any other legislation—

Mr Hodgson: Essentially we're going to be swamped next week again and for years to come. Wouldn't it be more plausible to just insert a clause that a municipality and a school board have the right to issue a grant if it's passed by resolution and done on a yearly basis, and then you wouldn't have the problem of exporting the tax burden to other municipalities or other school boards?

Mr Riley: I can't really speak to that. It's something more perhaps from our funding people who could address that. It sounds like something that could be considered. I don't know. I have with me today Walter Wasylo from our grant area who might have a response to that issue.

Mr Hansen: Madam Chair, has this got to do with my motion?

The Chair: Probably not.

Mr Hodgson: Yes, it's really relevant because if that's possible, then it avoids all this time you waste every week on private members.

The Chair: There were some logistical concerns because I think the question that Mr O'Neil raised, which is where a lot of this other conversation evolved from, was whether there will be enough time to bring this back in order that the different boards be consulted.

Mr Hansen: That's okay. I don't need an explanation. I had a meeting three minutes ago to go to.

The Chair: Well, we normally close at 12. What can I say? At this point—

Interjection.

The Chair: I'm trying to be actually. Members are being a little obstreperous this morning.

Mr O'Neil: We need a little give and take once in a while.

Mr McGuinty: Madam Chair, before a vote is taken on that motion, if we could ask, how would the matter then be brought back? If it's open-ended, how do we get it back on?

The Chair: As long as the consultations have been completed, then you would contact the clerk's office and the clerk would make the effort to schedule you as soon as possible. The bill has already been read in the House. That procedure has been gone through and some of the other basic procedures obviously have been completed in light of that. But then it's just a matter of contacting the clerk and making sure that we can schedule you appropriately.

Mr McGuinty: All right, thank you.

The Chair: Thank you. On the motion which is a deferral motion—

Mrs MacKinnon: Madam Chair, I still have a question.

The Chair: Is it on the motion?

Mrs MacKinnon: No.

The Chair: Thank you, Mrs MacKinnon.

Mrs MacKinnon: I said that half an hour ago.

The Chair: At this point we have the motion for deferral and it is an open-ended deferral, just to remind members. All those in favour, please indicate. Any opposed? Seeing none, thank you, that motion carries. This is deferred.

Mrs MacKinnon, what is your request?

Mrs MacKinnon: It's too late.

The Chair: Thank you. I would hope that the applicant will work with the ministry in order to get this resolved.

Mr O'Neil: Am I to understand then, because the ministry staff have been good enough to work out what would have to be done in a similar case to this so these people know in any future applications we have they'd be told this is what you have to have before you should come before the committee, which saves us a lot of—is that my understanding?

The Chair: I think that effort will be made to make sure that it's clear. At this point we are adjourned and we will hopefully see you soon.

The committee adjourned at 1151.

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

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***Vice-Chair / Vice-Présidente:** MacKinnon, Ellen (Lambton ND)

Eddy, Ron (Brant-Haldimand L)

Fletcher, Derek (Guelph ND)

***Hansen, Ron (Lincoln ND)**

***Hayes, Pat (Essex-Kent ND)**

***Hodgson, Chris (Victoria-Haliburton PC)**

Jordan, Leo (Lanark-Renfrew PC)

***Mills, Gordon (Durham East/-Est ND)**

***O'Neil, Hugh P. (Quinte L)**

Perruzza, Anthony (Downsview ND)

***Ruprecht, Tony (Parkdale L)**

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Cooper, Mike (Kitchener-Wilmot ND) for Mr Perruzza

Wessinger, Paul (Simcoe Centre ND) for Mr Fletcher

Also taking part / Autres participants et participantes:

Ministry of Municipal Affairs:

Coy, Lynette, senior economist, taxation policy

Hayes, Pat, parliamentary assistant to the minister

Melville, Tom, legal counsel

Murray, Paul, legal counsel

Wood, Margaret, policy adviser, local government policy branch

Riley, Mike, legal counsel, Ministry of Education and Training

Clerk / Greffière: Grannum, Tonia

Staff / Personnel: Mifsud, Lucinda, legislative counsel

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Third Session, 35th Parliament

Assemblée législative de l'Ontario

Troisième session, 35^e législature

Official Report of Debates (Hansard)

Wednesday 7 December 1994

Journal des débats (Hansard)

Mercredi 7 décembre 1994

Standing committee on
regulations and private bills

Comité permanent des
règlements et des projets
de loi privés



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
REGULATIONS AND PRIVATE BILLS

Wednesday 7 December 1994

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS
ET DES PROJETS DE LOI PRIVÉS

Mercredi 7 décembre 1994

*The committee met at 0907 in committee room 1.*COBALLOY MINES & REFINERS
LIMITED ACT, 1994COLUMBIA METALS CORPORATION
LIMITED ACT, 1994

Consideration of Bill Pr143, An Act to revive Coballoy Mines & Refiners Limited; and Bill Pr144, An Act to revive Columbia Metals Corporation Limited.

The Chair (Ms Christel Haeck): Good morning to all. We would now like to start the regular meeting of the standing committee on regulations and private bills. Our first order of business is Bill Pr143, An Act to revive Coballoy Mines & Refiners Limited. Mr Murphy, welcome, and if you would introduce the applicant, feel free to say a few opening remarks.

Mr Tim Murphy (St George-St David): I'd like to introduce Georges Dubé, who is the solicitor for Coballoy Mines & Refiners, and I would ask that the committee please consider this and pass it. I will introduce Mr Dubé to answer any questions and provide some background.

Mr Georges Dubé: I'm here representing Alexander Gray, who is the executor of the estate of his father, James Joseph Gray. A little history on the company: Mr James Joseph Gray was very much like Harry Oakes. He explored much of northern Ontario and had a large portfolio of small mining companies at his death. His widow, who became executor of his estate, tried to manage, unfortunately unsuccessfully, the wide portfolio and failed to pay certain taxes on the properties and on the companies. She died in 1992, at which time the son, Alexander Gray, became the executor of his father's estate and took it upon himself to revive what he could of the remaining interests in his father's estate.

We're left with this company, Coballoy Mines and Refiners Ltd, as well as another company that will be up shortly. Coballoy has, to my knowledge, been given consent by Mr Victor Wilkinson at the corporations tax branch of the Ministry of Finance and also has obtained the consent of the public trustee for past legal services rendered. Also, the notice of publication under the standing order rules has been satisfied. As such, it is now being presented to you to be considered to be passed.

The Chair: At this point, I'm required to ask if there are any interested parties who wish to come forward to speak to this matter. Seeing none, I would ask Mr Hayes to make any remarks regarding input from the ministry.

Mr Pat Hayes (Essex-Kent): The Minister of Municipal Affairs does not object to this revival.

The Chair: Any questions from members?

Mr Ron Hansen (Lincoln): I can say that we will support this bill. If we could, to save time, the other bill, Pr144, is identical to the first one, Pr143. Maybe we can possibly go right into 144, if there are no objections, and go through it and get it done with.

The Chair: Other members, any objections to proceeding in that manner? Mr Dubé, if you'd like to make any remarks regarding the next one, Bill Pr144, at the same time, then we'll deal with both in numerical order when it comes to the vote.

Mr Dubé: Great, thank you. There's nothing really to add with respect to Columbia Metals Corp Ltd. It as well fell into dissolution because of a failure by Mrs Gray, the executor of her husband's estate, to pay certain taxes. Now Columbia Metals is up to date. The notice of publication has been satisfied as well with regard to that company and I believe Victor Wilkinson has given his consent, as well as any other necessary government agencies.

The Chair: Again, are there any other interested parties who wish to come before us on the matter of Bill Pr144, which relates to Columbia Metals Corp? Seeing none, Mr Hayes.

Mr Hayes: The ministry has no objections to Bill Pr144.

The Chair: Mrs MacKinnon, do you have a question?

Mrs Ellen MacKinnon (Lambton): Yes, I guess it's because I don't have a legal mind. One says the province of Ontario and the other says the province of BC. Have we got jurisdiction for BC in this matter?

Mr Dubé: Both companies are incorporated under the relevant statute here in Ontario. Columbia Metals Corp at the time of its dissolution owned properties in British Columbia. It wasn't a British Columbia chartered company. What we're reviving is the charter of the company, which is an Ontario charter. Both are Ontario companies.

Mrs MacKinnon: I wish I'd never asked.

The Chair: It's all right, Mrs MacKinnon. Obviously, you saw something that some of us had not seen.

Mr Dubé: That's why you're here.

The Chair: That's exactly right, absolutely right. In any case, I don't believe there are any further questions from members. At this point, are members ready to vote on the two items, that is, Pr143 and Pr144? Agreed. We'll go through them in the proper numerical order.

Relating to Bill Pr143:

Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

That one is carried, Bill Pr143.

Now to Pr144:

Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

I think we just set a new time record. Thank you to both of you, and I hope that meets with your satisfaction.

PARKWAY DELICATESSEN LIMITED ACT, 1994

Consideration of Bill Pr145, An Act to revive Parkway Delicatessen Limited.

The Chair: This is relating to Bill Pr145, An Act to revive Parkway Delicatessen Limited. I would ask Mr Carinci and, on behalf of Mr Phillips, we have Mr O'Neil.

Mr Hugh O'Neil (Quinte): Mr Phillips asked if I would introduce this bill for him this morning. I would like to turn it over to Mr Ron Carinci, the solicitor.

Mr Ron Carinci: Good morning. There's an elderly couple who had a corporation, a delicatessen, and they did not even realize that their charter had been revoked due to the fact that some tax returns had not been filed. The only way that we found out about this was that they were trying to sell their business and, through due diligence, they found out that the charter had been revoked. I think the reason that this had occurred is because they had switched accountants around 1986-87. The old accountant was not very friendly with the new accountant and many of the important working papers had not been transferred. Although at that time the tax returns had not been filed, subsequent tax returns were filed until 1990, when some of the tax returns were returned to the new accountant and they stated that the charter had been revoked in November 1988.

All the requisite publications have been done—Toronto Star and the Ontario Gazette—and I ask that you consider the passing of this bill.

The Chair: At this point I ask if there are any other interested parties who wish to come forward on this matter. Seeing none, I would turn to Mr Hayes.

Mr Hayes: The Ministry of Consumer and Commercial Relations and also the corporations tax branch of the ministry of revenue have no objection to this; therefore, Municipal Affairs has no objections to it either.

The Chair: Any questions from members? Are members at this point ready to vote? Agreed.

Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you very much, and I hope that meets with your satisfaction.

S.A.W. GALLERY INC. ACT, 1994

Consideration of Bill Pr152, An Act to revive S.A.W. Gallery Inc.

The Chair: Our next order of business is Bill Pr152, An Act to revive S.A.W. Gallery Inc. Mr Grandmaitre, good morning. Would you introduce the applicant.

Mr Bernard Grandmaitre (Ottawa East): On my left, Madam Chair and members of the committee, is Penny McCann. Penny is the president of S.A.W. Gallery Inc. This bill is straightforward: It's to revise the incorporation status of SAW. SAW is an artist-run centre in the city of Ottawa. It was dissolved back in 1982 for failing to file. If you do have any questions, Penny McCann will answer them.

The Chair: Ms McCann, did you at this point wish to make any remarks?

Ms Penny McCann: Just for the information of the committee, what seems to have transpired was that in that period of time in 1982 the gallery moved twice in a fairly short period of time, and essentially what seems to have happened is we forgot to send a change of address. We have existed in Ottawa for 20 years and still continue to, and it was only when we went to change the name of SAW Gallery Inc and we spoke to the ministry that we realized we had been dissolved as a corporation. It was a big surprise.

The Chair: Very good. Any other interested party who wishes to come forward at this time to speak on this matter? Seeing none, Mr Hayes.

Mr Hayes: The Ministry of Finance does not object to this and Municipal Affairs does not object to this bill either.

The Chair: Any questions by members at this time? Seeing none, are members ready to vote? Agreed.

Therefore, relating to Bill Pr152:

Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Mr O'Neil: Madam Chair, if I may, I move that the committee recommend that the fees and the actual cost of printing at all stages in the annual statutes be remitted on Bill Pr152, An Act to revive S.A.W. Gallery Inc.

The Chair: Thank you. All members have heard the motion. Any discussion? Seeing none, all those in favour? Any opposed? That's carried. Thank you.

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PAYS D'EN HAUT WILDERNESS EXPEDITIONS LIMITED ACT, 1994.

Consideration of Bill Pr155, an Act to revive Pays D'en Haut Wilderness Expeditions Limited.

The Chair: Our next order of business is Bill Pr155, an Act to revive Pays D'en Haut Wilderness Expeditions Limited. Mr Ramsay, if you would like to make some opening remarks and introduce your applicant.

Mr David Ramsay (Timiskaming): I'm the sponsor of Bill Pr155, and I'd like to introduce Gordon Deeks.

Mr Gordon Deeks: Members of the committee, I'm the director of Pays D'en Haut Wilderness Expeditions, which is a summer camp located in Temagami. The charter was revoked due to failure, for a number of years, to file returns. Perhaps we're better at canoe tripping than we are at our paperwork. We didn't realize that the charter had been revoked until the cheques were returned and our accountants advised us. My understanding is that we've filed all the necessary papers, completed the publication and paid all the amounts that were due.

The Chair: Are there any other interested parties who wish to come forward? Seeing none, Mr Hayes?

Mr Hayes: The Ministry of Municipal Affairs and the Ministry of Finance do not object to this application.

The Chair: Any questions from members? Seeing none, are members ready to vote?

Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Mr Deeks, Mr Ramsay, thank you.

YOUNG MEN'S CHRISTIAN ASSOCIATION
OF CAMBRIDGE ACT, 1994.

Consideration of Bill Pr120, An Act respecting the Young Men's Christian Association of Cambridge.

The Chair: Our next order of business is Bill Pr120, an Act respecting the Young Men's Christian Association of Cambridge. Mr Cooper, welcome. Would you introduce your applicants.

Mr Mike Cooper (Kitchener-Wilmot): It's my pleasure to sponsor Bill Pr120, an Act respecting the Young Men's Christian Association of Cambridge, on behalf of my colleague Mike Farnan. With me today is Don Pavey, the solicitor for the YMCA of Cambridge, and David Young, the chief executive officer for the YMCA of Cambridge.

Mr Don Pavey: Thank you, Mr Cooper. I'm Don Pavey, the solicitor for the YMCA of Cambridge. Members of the committee, I'd like to thank you for the opportunity to speak on behalf of Bill Pr120 respecting the YMCA of Cambridge.

The YMCA of Cambridge, and its predecessor, the YMCA of Galt, was formed in 1856. The present building we occupy was constructed in 1913 and renovations were completed in 1960 and 1981. Interestingly enough, the YMCA of Cambridge is the fastest-growing YMCA in Canada, currently having 5,800 members in a 30,000-square-foot building. Half of those members are children and teenagers, and a third of the membership who cannot afford fees are subsidized in some manner by the YMCA.

As you might appreciate, we've outgrown our present facility and we've been presented with a unique opportunity to construct a new YMCA in the geographic centre of Cambridge adjoining a 100-acre Dumfries conservation area owned by the Grand River Conservation Authority. The present site of the YMCA is exempt from municipal and school taxes by a private bill passed in 1986. The purpose of this bill is to enable the council of the city of

Cambridge, the regional municipality of Waterloo and the Waterloo county school board to exempt the new YMCA property owned by the association from taxation for municipal and school purposes.

Cambridge city council, on December 6, 1993, supported the proposed legislation. Furthermore, to indicate their support for the new project, and as part of the new shared facilities of municipalities, the city of Cambridge has entered into a 40-year shared-use agreement with the YMCA allowing for the shared use of an expanded swimming facility. As part of the partnership agreement, the city has contributed \$1 million to the project.

The council of the regional municipality of Waterloo passed a resolution supporting this legislation on August 25 of this year, and the Waterloo County Board of Education passed a similar resolution on September 26, 1994. The province of Ontario, through the Jobs Ontario Community Action program of the Ministry of Culture, Tourism and Recreation, contributed \$1.5 million to this project. The association, which was incorporated in 1913 by an act of this Legislature, is a registered charitable organization under the Income Tax Act. In Waterloo region, all of the YMCAs are exempt from taxation, and throughout Ontario the majority of YMCAs are also in a similar position. The Cambridge family YMCA is a charitable, community-based organization staffed by over 200 volunteers.

I wish to ask for your support with respect to the proposed legislation before the committee, and I'd be pleased to answer any questions.

The Chair: A Mr Irving has indicated that he is an interested party who wishes to speak to this matter. Do we have any correspondence from Mr Irving?

Mr O'Neil: I understand that the legislative people are making some amendments, and I ask for a 15-minute deferral to have these people come back. We can maybe deal with some of the other business until that's done.

The Chair: Thank you, Mr O'Neil. I remind members that the letter from Mr Irving is in your package. In the meantime, all members have heard the motion. All those in favour of a deferral? That will give you a chance, 15 minutes, to carry on with some legislative drafting.

Mr Pavey: Thank you very much.

SARNIA COMMUNITY FOUNDATION ACT, 1994

Consideration of Bill Pr139, An Act respecting the Sarnia Community Foundation.

The Chair: We will move to the next order of business, which is Bill Pr139, An Act respecting the Sarnia Community Foundation. Mrs MacKinnon, you are probably aware of the routine, if you would like to introduce your applicants.

Mrs MacKinnon: It's my pleasure today to sponsor Bill Pr139. Because of the position our colleague Bob Huget has, he's not able to be here. I would ask the person beside me to introduce himself and make his presentation. This is an act respecting the Sarnia Community Foundation.

The Chair: You're Mr Kohlmeier?

Mr Graydon Baines: My name is Graydon Baines.

Mrs MacKinnon: I knew it wasn't Mr Kohlmeier.

Mr Baines: I'm the executive director of the foundation and have been since its inception, which is back in 1982. The foundation is a creation of Andrew S. Brandt, if you remember Andrew.

Mr O'Neil: How could we forget him?

Mr Baines: This amendment to the original act is called for for two reasons. Due to the fact that amalgamation took place in Sarnia, which took in a great deal of territory of the surrounding townships, we wish to make it more of a community foundation rather than just strictly the City of Sarnia Foundation, so we have dropped the words "city of" Sarnia and just call it the Sarnia Community Foundation.

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The other reason we're asking for amendment to the act is that to cover a larger area for the board of directors, we wish to increase the board from seven to 12.

These are the two main reasons we're asking for this amendment to the act. It only deals with section 3 of the original act anyway.

The Chair: Thank you, Mr Baines. I'm quite sure all members around this table remember Mr Brandt with a great deal of fondness, and some of us have a chance to see him at a few wine events every now and again. He is definitely a very admirable gentleman.

Are there any interested parties who wish to come forward on this matter? Seeing none, Mr Hayes?

Mr Hayes: There have not been any objections to this and the ministry does not object to it either.

The Chair: Any questions from members? Seeing none, I would ask if members are ready to vote.

Mr Chris Hodgson (Victoria-Haliburton): Agreed.

The Chair: Mr Hodgson took care of it for all of you. Relating to Bill Pr139, shall sections 1 through 4 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Mr Hansen: Madam Chair, I'd like to make a motion. I move that the committee recommend that the fees and the actual cost of printing at all stages and in the annual statutes be remitted on Bill Pr139, An Act respecting the Sarnia Community Foundation.

The Chair: Thank you, Mr Hansen. All members have heard that motion. All those in favour, please indicate. Any opposed? None. That motion is carried.

Some folks are getting a little slap-happy at this hour of the morning.

Mr Hodgson: Some? What about the Chair?

The Chair: We'll work on the next cup of coffee.

Mr Baines, thank you very much for coming this morning, and I hope this meets with your satisfaction.

Mr Baines: Thank you, Madam Chair.

The Chair: I call our next order of business, Bill Pr140, An Act respecting the city of Hamilton. I'm

looking for a Mr Lorne Farr, solicitor for the city of Hamilton. Is he present? Maybe the weather conditions have delayed him, so we'll move that down the agenda.

CANADIAN AUTOMOTIVE MUSEUM INC. ACT, 1994

Consideration of Bill Pr142, An Act respecting the Canadian Automotive Museum Inc.

The Chair: I call Bill Pr142, An Act respecting the Canadian Automotive Museum Inc. Mr Hansen, I see you're doing double duty. Would you like to introduce your applicant?

Mr Hansen: On behalf of Drummond White, who is unable to make it here, I'd like to introduce Mr Ralph Turner. He's going to be talking on Bill Pr142, An Act respecting the Canadian Automotive Museum Inc. Welcome to the committee.

The Chair: Mr Turner, would you like to make some opening remarks?

Mr Ralph Turner: Thank you, Madam Chairman. I am a solicitor and have been a director of the Canadian Automotive Museum for some 15 years. I am here in a volunteer capacity, as you can appreciate. This museum is a charitable corporation. It's been operating since 1963 in Oshawa and, like nearly all museums, is struggling. As a result of an approach made to the city of Oshawa some time ago, it was agreed that the city of Oshawa would sponsor and do all the necessary preliminary work for a bill to exempt the museum from taxation with respect to its building and land, located at 99 Simcoe Street South in Oshawa.

I am therefore before you today to support this bill, which would give a tremendous benefit to the museum in the sense that it would release the museum from the burden of nearly \$30,000 of annual taxation which could be much better spent in promoting the museum itself, which is located in an old building that requires a great deal of repairs in Oshawa.

There is one problem with this which I should address, as it's been brought to my notice. We were advised by the legal department of the city of Oshawa that we should give notice to the respective school boards and to the region of Durham. That was done back in May, and acknowledgement was received from the Durham region of our advice that an application was being made for a private bill.

I am now informed that there is some concern on the part of the Ministry of Municipal Affairs that there should be not only notice but consent. I would suggest that it seems to me that, analogizing this to court material, if notice is given to a person and they do not respond or make any objection, then it should be assumed that consent is present and that the bill should go forward.

This means a great deal to the museum and I would therefore ask that in the circumstances, based upon the material before you, this bill be recommended for passage by the Legislature of Ontario.

The Chair: Thank you, Mr Turner. Are there any other interested parties who wish to come forward on this matter? Seeing none, I turn to Mr Hayes.

Mr Hayes: The ministry does not support this bill, because they have not met all the criteria yet. It was

mentioned that you have to have the region and the school board support, and we have been told by the school board—it was silent on it, but it is not giving its consent to this bill. That's what the ministry has been told. So we do oppose it, because it does not meet all the criteria from the ministry.

Mr O'Neil: This is something along the lines of several other bills we've dealt with over the last few weeks. Do I understand that the school board has refused, that at the present time it does not intend to support this?

Mr Hayes: At the present time they don't. At the present time the support is not there.

Mr Hansen: Could we have an amendment put in this bill, like the other bills, and it could be passed?

The Chair: I'm not sure if the applicant at this point is in agreement. Possibly someone would like to move a motion that we don't have this discussion at this venue, that the applicant work with staff to see what they can conclude in terms of some legislative drafting, much as what happened to Bill Pr120.

Mr Hansen: Yes, rather than kill the bill.

Mr O'Neil: To be fair to the applicant, can you really make changes to this bill that would be acceptable when you don't have the approval of the school board? I don't know. Maybe staff could tell us that.

0940

Mr Hayes: What was the question?

The Chair: Mr O'Neil remarked on the fact that it might be difficult to alter this bill as it is.

Mr Hayes: Yes, it would be. I guess the only move we could make on this bill would really be to defer it until all the criteria are met. That's about as far as we could go on this particular bill.

Mrs MacKinnon: Did you say the separate school board didn't support this?

Mr Hayes: The school boards, I said. I didn't say separate or public. Both boards, I guess.

The Chair: We should all be advised that Ms Granum, the clerk, is distributing some additional materials, and I think people are probably wise to scan through some additional materials in their package. Mr Hayes, did you want to make any remarks?

Mr Hayes: I guess it's that the public board is not supporting this bill. Sorry. I didn't realize that until now.

The Chair: Mr Turner, do you have any remarks?

Mr Turner: I've already addressed the issue, and it is my position on behalf of the museum that notice has been properly given to these organizations and they have not seen fit to respond or to object. It is my submission that in those circumstances, that should be deemed to be consent. If they have not done us the courtesy of replying to our letter and advising us if they have objections, giving us an opportunity to satisfy them, then I'm rather surprised at the tactics adopted by these organizations.

In any event, if you're not disposed to recommend this bill for passage, Madam Chairman, I would ask that at least we be given the opportunity to have a deferment in order to approach these people.

The Chair: Thank you, Mr Turner. I ask if one of the members would make such a motion.

Mr O'Neil: I so move, that this bill be deferred until the applicants have had a chance to discuss the matter further with the boards of education.

The Chair: Any discussion on the motion? All those in favour of voting on the motion? Agreed.

All those in favour of the motion, as stated? Agreed, and none opposed.

Therefore, you have your deferral until—the next time we'll be meeting will be in the spring, so that will give you some time to get your approvals in order.

Mr Turner: Thank you, Madam Chairman.

ONTARIO ASSOCIATION OF HOME INSPECTORS ACT, 1994

Consideration of Bill Pr158, An Act respecting the Ontario Association of Home Inspectors.

The Chair: Our next order of business is Bill Pr158, An Act respecting the Ontario Association of Home Inspectors. I ask Mr Cooper to introduce the applicant.

Mr Cooper: It's a pleasure to be here to sponsor Bill Pr158, An Act respecting the Ontario Association of Home Inspectors, on behalf of my colleague Gord Mills. With me today is Ron Segal, the solicitor, and Terry Carson, who's one of the members.

The Chair: Mr Segal, are you speaking on behalf of the association?

Mr Ron Segal: That's correct.

The Chair: Please make your opening remarks, and if Mr Carson would like to make some remarks afterwards, that's fair enough.

Mr Segal: Firstly, I'd like to state that the purpose of this bill is to incorporate the Ontario Association of Home Inspectors and to enable it to grant to its members the right to the exclusive use of the designation "registered home inspector."

I'd like to start with a general overview of the home inspection industry. Home inspectors are private practitioners who are responsible for providing impartial advice on property conditions to home owners, purchasers, occupants and other parties with an interest in property. They should not be confused with public sector building officials, who are responsible for enforcement of provincial building regulations or municipal bylaws. They should also not be confused with appraisers, who provide a monetary valuation of property.

Home inspectors are generalists responsible for identification and analysis of observable defects in property. They do not perform any repairs, nor do they do specialized analysis of any deficiencies.

The principal type of inspection is the pre-purchase inspection of a resale of an existing single-family dwelling or a small multi-dwelling building. It's estimated that 15% to 20% of all agreements of purchase and sale for such properties in Ontario currently provide for a home inspection to be conducted prior to the closing of the transaction. The home inspection is now an accepted part of the real estate transaction. Indeed, the Ontario Real Estate Association and the Toronto Real Estate Board

both provide standard home inspection clauses to be inserted in such agreements.

I'd like to now say a little bit about the applicant, the Ontario Association of Home Inspectors, and how it fits into this. They were formed in 1986. They're a division of the federally incorporated Canadian Association of Home Inspectors, and a chapter of the American Society of Home Inspectors. The American Society of Home Inspectors was founded in 1976 and it represents over 2,500 home inspectors across North America. Its standards for home inspection are accepted by government agencies in many jurisdictions as the definitive performance guide for home inspectors. It's the only organization of its kind with stringent membership requirements.

The Ontario Association of Home Inspectors, as I stated, was formed in 1986. That was following discussions with the Ontario registrar of real estate. The registrar was concerned that at that time, the industry, being a new industry, did not operate under a set of standards or a code of ethics and suggested that the forming of a professional association of home inspectors would be viewed favourably by the registrar and would be in the public interest.

The Ontario Association of Home Inspectors is the only active association of home inspectors in Ontario right now and its current membership is approximately 150 home inspectors throughout the province of Ontario. It could be stated that the majority of home inspectors in Ontario are members of the association and that the Ontario Association of Home Inspectors' members currently conduct the majority of home inspections in Ontario. Indeed, the association estimates that its members perform approximately 80% of the home inspections in real estate transactions in Ontario.

I just want to touch briefly on the qualifications currently for membership in the association.

Candidates are required to pass two separate written examinations covering standards, ethics, general construction knowledge, defect recognition and systems operation. Candidates must have performed a minimum of 250 paid inspections which are conducted in accordance with the standards of practice of the association.

Those standards provide that there must be a detailed listing of particular components of the property that the home inspectors must observe in doing their inspection. Secondly, they must identify major repairs. Thirdly, and most importantly, they must provide written reports of the results of their inspection.

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Candidates must agree to conduct their practice in accordance with a certain code of ethics. That code of ethics provides that they must conduct their practice in accordance with law, integrity and honesty. In particular, it provides that members shall not act for or accept payment from more than one party in connection with any inspection; this to avoid any conflicts of interest. Also, they shall not use inspection work as a vehicle to obtain work in any other field.

Perhaps most importantly, members of the Ontario Association of Home Inspectors are required to maintain

errors and omissions insurance under the group policy of the Canadian Association of Home Inspectors. The policy provides for \$1 million liability insurance coverage.

Just briefly, I want to touch upon the relations between other institutions and the Ontario Association of Home Inspectors. In addition to establishing high standards for home inspectors in Ontario, they work with other institutions in the province to strengthen the home inspection industry. Some examples include the Ontario New Home Warranty Program. The association has had discussions regarding the reporting of deficiencies when an inspection is conducted for a purchaser of a new home with the Ontario New Home Warranty Program, and indeed the Ontario New Home Warranty Program has trained a group of the members to conduct construction progress inspections on its behalf.

Another example is the Canada Mortgage and Housing Corp, which has taken an interest in the private home inspection industry as being capable of assisting CMHC's mandate of improving the quality of the nation's housing. The CMHC, according to a recent study, encourages the growth of the industry in accordance with the model set up by the Ontario Association of Home Inspectors.

The association has also developed relationships with educational institutions, including George Brown College, which has become the first community college to offer courses recognized by the Ontario Association of Home Inspectors. It also participates on Seneca College's building construction regulations advisory committee.

In addition, the association conducts an ongoing public relations campaign which includes the distribution of brochures to the media, real estate offices and the public, explaining the importance of having a home inspection prior to purchasing a property.

Finally, I'd like to touch upon the reasons or necessity of this particular bill.

The home inspection industry is growing rapidly and it's expected to continue to grow as more and more consumers become aware of the importance of a pre-purchase home inspection. Unfortunately, the Ontario consumer currently has no way of ensuring that any given home inspector which they might want to hire is qualified, is subject to any disciplinary proceedings and, most importantly, carries liability insurance. This is particularly a problem given that the recent growth in the industry has led to an influx of new entrants, including some franchises, many of which lack the Ontario Association of Home Inspectors' commitment to education qualifications and ethics.

A report done by the Ontario Ministry of Consumer and Commercial Relations in 1988 on the real estate industry reviewed several new services provided in the real estate area. It identified the home inspection services industry and pointed out that one particular problem with regard to home inspection services is that there were no prerequisites for individuals presenting themselves as home inspectors. This would also be addressed by this bill.

Consumers have also been interested in the home inspection industry. In March 1989, in the Canadian Con-

sumer magazine, there was an article entitled "Inspection of Home Inspectors." The article reviewed the current lack of regulation in the home inspection service industry, although it did point out that the Ontario Association of Home Inspectors had tried to standardize the industry.

The article summarized the need for regulation. I think that's best summarized in something in the materials, the compendium, but I'd like to just quote a short paragraph out of that article which reads as follows:

"As the home inspection field grows, governments and consumers would no doubt have to consider a number of thorny questions. Buying a house is the biggest financial decision most Canadians face, one that's fraught with technical details that many home buyers can't handle. A home inspector can help them sort through that complicated process—and avoid financial headaches. But should consumers have to embark on a lengthy self-education process to be able to choose a responsible home inspector?"

The article went on to suggest that governments may want to consider a regulation system which would help consumers feel confident that the inspector they had hired was qualified to do the job.

More recently, in 1992, the Canada Mortgage and Housing Corp did a survey of the private home inspection industry. It made favourable reference to the Ontario Association of Home Inspectors as requiring its members to maintain errors and omissions insurance and follow a standards of practice. However, the report made reference to the non-existence of any mechanisms currently to ensure that private home inspectors were well qualified, notwithstanding that a majority of private home inspectors were in favour of standardized training and a certification program.

The consultant preparing the CMHC report recommended that the options for private sector home inspectors would include the restricted use of association logos to those who have met certain standards as well as the establishment of a private sector certification program.

In summary, both consumer groups and interested government agencies have recognized the need to provide Ontario consumers with a method to identify qualified home inspectors who maintain insurance coverage. In particular, the CMHC report specifically concluded that a private sector certification program was a good option in this regard.

In our view, given that the Ontario Association of Home Inspectors has already been noted as the organization which has played an important role in regulating the qualifications, standards and ethics of home inspectors in Ontario in the initial years of the industry, it would be a logical choice to oversee such a certification program that has been recommended.

Finally, I'd like to discuss what will be the effect of passage of Bill 158.

The bill, if passed, will, first, establish an Ontario non-profit corporation, the members of which will include the current members of the Ontario Association of Home Inspectors and which will therefore represent home in-

spectors throughout the province. This association would operate independently of both the Canadian Association of Home Inspectors and the American Society of Home Inspectors and would set entrance requirements, discipline its members and establish education requirements specific to Ontario.

Passage of the bill will ensure that only a home inspector who has met the necessary education and experience requirements and who has agreed to be bound by the association's standard of practice, code of ethics, and mandatory insurance requirements will be entitled to represent himself to the Ontario consumer as a registered home inspector. I would like to stress that the bill will not prevent any other individual in Ontario from carrying on the business of home inspection, although it is hoped that other home inspectors would be encouraged to raise their standards to the standards of the members of the association.

Finally, I'd like to say that the objective of the bill is one of consumer protection, to ensure that Ontario consumers of home inspection services will be able, when they select a home inspector, to be sure the person is well qualified, follows standards of practice, follows a code of ethics and maintains insurance coverage.

I'd like to thank the members for consideration of this bill. If you have any questions, we'd be glad to take them now, and Mr Carson perhaps could address any specific questions concerning the curriculum.

Mr Terry Carson: Just a few brief notes. First of all, I'm overjoyed to be here. I'm the founder of the Ontario Association of Home Inspectors from 1986. I have to say that from the very beginning we realized that we don't operate in isolation, that not only do we have our clients, but we interact with government officials, we interact with homeowners, with vendors, with an industry.

A second hat I wear in that is I'm in charge of the examination for the American Society of Home Inspectors, so I consider myself rather well acquainted with the qualification process for home inspectors.

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On November 15 of this year in the *Globe and Mail* there was an article called "Venting Systems Posing Problems." Some of you may be aware that a consumer advisory was issued on November 14. This was from the Ministry of Consumer and Commercial Relations relating to some problems with furnace vent pipes. To me, one of the greatest benefits we would have from this act is that we would gain recognition as an organization so that we would have much better interaction with various government departments and other interested parties. So when problems like this arise, we would be on the calling list of organizations like this. It's this type of problem that we are seeing every day and where we know that we make a positive impact in preventing loss of life and I would say really ensuring the good housing stock in Ontario. Ontario Hydro did issue a similar type of recall on Flex-Heat, on a certain type of radiant heat, some years ago, and we have been cooperating in those efforts.

So I think my bottom line is we are here to help the consumer. We are here not only to operate on our own,

but we are interacting with everyone else, and that's where we feel the act will help us the most.

The Chair: Thank you, Mr Carson. At this point I must ask for interested parties to identify themselves. Members will realize we had in the package a Mr Kodeda who wished to make a presentation. Please introduce yourself and make your remarks.

Mr Peter Kodeda: My name is Peter Kodeda. Being 35 years in construction, I'm assuming that to pass and recognize this private bill, 158, it's almost overdue, and with respect to knowing construction, I'm basically supporting all this stuff which is with respect to the activities with the association, to be a member and associated with a number of the associations and institutes, especially in the past time, as a national director of American institute of constructors. I do know all the problems, to a certain point, in respect of the construction industry.

What these two gentlemen just did, a small presentation in respect of the introduction of the bill, definitely I am completely supporting everything that is done with respect to the activities of the association.

The Chair: Thank you, Mr Kodeda. Are there any further individuals who wish to come forward on this matter? Seeing none, I would ask Mr Hayes to give the ministerial perspective.

Mr Hayes: Thank you, Madam Chair, but I do have a question before I give the ministry's response.

You did allude to the fact that others would still be able to practise even though they didn't belong to the association. But I do have the one concern, and that's my personal feeling that we've seen other groups or organizations, once they got that title and recognition, along the line come to government and say, "We can't allow these other people to practise unless they belong to our association." I'd really like to know your opinion on how it would affect other people who are qualified, meet all the conditions, but choose not to belong to your association.

Mr Carson: If I could answer that question—

The Chair: The technician has to introduce you to Hansard so that when they do the printed copy, they know who actually said these pearls of wisdom.

Mr Carson: I am Terry Carson. I would say that if we were to start looking at what a home inspection is and who performs a home inspection, we will have any number of different people who may be perceived as performing that function. I would say that the inspection role may be performed, under some circumstances, by an architect who would be going ahead and doing a design of a house, by perhaps a contractor who will be doing something very specialized as far as the future construction.

The word "inspection" and the actual process are so broadly based that it depends on the specific function that is being fulfilled. I don't see any way, with the different types of inspections and the different people who are out there, that we could claim any type of exclusivity, and we're not.

The Chair: Thank you, Mr Carson. Mr Hayes, did you want to continue with your remarks?

Mr Hayes: I just wanted to make that point, and I hope those things don't happen.

The ministries of Municipal Affairs and Housing actually met and discussed with the applicant and they are not opposed to this application. The only thing the Ministry of Housing did, just for the committee's information, is that it has just pointed out that it is a very young organization. Outside of that, we do not object to the application.

The Chair: Do I have any questions from members?

Mrs MacKinnon: This really raises something inside me that says, "Beware." First of all, as a property owner or a homeowner, maybe I should declare a conflict of interest. If somebody wants me to, say so.

Interjection: No, it's okay.

Mrs MacKinnon: We have inspectors coming into our homes all the time. I have one who comes in to see if you've got working fire or smoke detectors, one for my furnace, one for my water and one for my hydro. How many more do we need? Further, I can see, if it's indeed started, the next thing we'll know, our offices will be jammed with these people lobbying us for something else. Where does it end?

I'm going to be pretty obnoxious and vote against it.

Mr Derek Fletcher (Guelph): That's not obnoxious.

Mrs MacKinnon: Well, call it what you like. I'm going to vote against it.

The Chair: At this point, I would turn to Mr Jordan.

Mr Leo Jordan (Lanark-Renfrew): Thank you, gentlemen, for bringing forward this bill. I apologize for being a little late coming in on it this morning.

My first question is, how does this bill and the responsibilities of these people relate to the building inspector that we have now?

Mrs MacKinnon: My point exactly.

Mr Carson: I have to point out that we operate in a totally different sphere from the public sector building officials. The public sector building officials exist to enforce the Ontario building code in the case of new construction or in the case of renovations or repairs. We also have other public sector officials who enforce municipal bylaws. We operate totally independently for either, let's say, a prospective purchaser or for an owner. We are not there to enforce bylaws. We are not there to insist that smoke detectors be present. We are there to advise people and provide information.

More specifically, when someone is buying a house, we go in there and we give them a much better idea of the conditions, be they safety related, be they the expected age they may have out of a roof, whether their electrical system is going to perform as they intend, and then of course sometimes energy efficiency. So we take it from a totally different perspective. We're providing information rather than enforcing existing standards.

Certainly, when we see safety issues, we feel that we perform a similar public service and we overlap in a sense by advising people that they have a problem.

Mr Jordan: Where do you receive remuneration? From the user?

Mr Carson: That is correct, sir. We receive remuneration from the user as opposed to other parties.

Mr Jordan: Do you have standard fees that you apply for general inspections?

Mr Carson: Yes, we do.

Mr Jordan: I just noticed this morning that there's another group that has opened an office in Toronto and across Ontario under green industry. They're doing home inspections, they're checking furnaces, they're checking insulation and they're checking windows. It's a consortium that's been formed among a group of some utilities and the Ministry of Environment and Energy. They're providing this service free of charge. They're coming out to the homes. They have a number in the Globe and Mail this morning to provide this service free of charge.

Mr Hansen: They're most likely selling insulation. You get a free inspection to put more insulation in.

Mr Jordan: No, no. They're working for your Ministry of Environment. He's brought it together as the minister. They're paid some by the Ministry of Environment, some by the utilities, some by the different groups in the consortium.

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I thought the Ontario building code covered everything along with the Ontario electrical code, and the inspection you had to go through. Perhaps the contractor, after 35 years' experience, would be well qualified to advise me on what I was going to gain from this inspection that I can't get—I can get a general inspection on wiring and everything from Ontario Hydro for a fee. I can get a general inspection on my heating system for a fee. Is this a bringing together of all this?

Mr Carson: May I talk?

The Chair: Please.

Mr Carson: I want to answer the question by pointing out two things. First of all, in the past there have been any number of government programs, by both federal and provincial, where specific items would be inspected. We do bring everything together and we would not exist if it were not for public demand, the demand from the consumer. The reason we have grown to the extent we have is that the public does not have confidence in individual programs like this to provide information in dribs and drabs. We tend to be brought in to provide more of a comprehensive picture, especially from the point of view of people purchasing houses or properties or wanting far more detailed information.

The other very important point is that the codes you were referring to, the electrical code and the building code, deal very specifically with new installations and in some cases retrofit. I would say that if we look at the housing stock in Toronto alone, there would be comparatively few that would meet all the standards for the modern electrical code. The codes do not define existing standards for the most part, the exception being some of the new apartment and house regulations on the rental front. But from the point of view of a single detached dwelling that is owned and operated by a single family, it's very rare that someone would be in a position that a house like this will be looked at by someone comprehen-

sively unless we go in there, unless someone really wants it.

Mr Jordan: So basically, having this bill and having you registered as a professional in the field is a protection for the user?

Mr Carson: That's correct, sir.

Mr Tony Ruprecht (Parkdale): I understand Mrs MacKinnon's concern that there are so many inspections and so many different groups out there and I can understand why you would almost get sick and tired of all of this, and your question was, "Where does it all end?" But I'm going to have to support this, and I'll tell you why.

Essentially, I'm a firm believer in regulating an unregulated industry in order to establish some set of guidelines and standards. As it stands right now, anyone can say they belong to some association or do it totally independently and come up with various quotes, because we don't have standards set.

In order to belong to this association, if I understand this correctly, you have to have certain educational requirements; you have to have certain tests that you have to pass in order to get into the association. That's why I think it would be a good idea to establish this association.

Mr Hayes, of course, has some concerns; I think they are well founded, but they were answered as well: that you're not forcing anybody to belong to the association even though there will be some subtle pressure, I suppose, associated with it as you continue in your drive to try to formulate some guidelines for the association. I think that will happen in due time. In the meantime, of course, if you are a home inspector you don't have to belong to the association.

Some of these questions have been settled in my mind, and I would certainly support the establishment of the association.

Mr Fletcher: I share some of Ellen's concerns also. I have no problem with the organization advocating on behalf of the consumers. It seems that they start to advocate on behalf of themselves also, but that's a headache for any government and that doesn't matter.

Looking at, "At any meeting of the association, two fifths of the members of the association, whether present or represented by proxy, constitutes a quorum," insurance companies love to do that too where they collect all the proxies. You could have two people at a meeting who have all the proxies, constituting a quorum, passing bylaws, making judgements, and the whole membership is not aware of what's going on. If it became a political movement, which is very possible—that happens in some of the biggest organizations where the proxies are being used—people actually do not realize what is being passed until it's passed. No safeguards?

Mr Segal: As you say, I think it's not an unusual provision just to ensure that business is conducted. The membership is from across Ontario, and it would be expected, certainly, that more members than that would come to a meeting.

Indeed, an important reason members would come to an Ontario Association of Home Inspectors meetings generally is because one of the requirements to remain a

member is to achieve 40 hours of continuing education in every two years, and these hours also happen to take place at the same time as meetings are held. So that's a good reason to ensure there will be a large number of members showing up at any given meeting.

In terms of what the membership can do, of course they cannot amend the legislation itself, and I think there couldn't be any fundamental changes made to what the association does, nor would there want to be any. I don't know. Mr Carson might know specifically how they conduct themselves, but I don't perceive any particular problem with the fact that there is that quorum which, as I say, seems to be a standard quorum number in the models of the legislation that we relied on as precedents for this legislation.

Mr Carson: The only thing I would say is that in the past we have worked more by consensus than anything, and I'm pleased that has happened and that's allowed us to go forward.

I just want to reiterate what was said. We put that provision in simply because it reflected what other organizations had and we felt this would be the most accepted. That's the only reason that was there.

Mr Fletcher: I know there are many organizations that do it, as I said, but there are more and more that do not do that. I'm not going to belabour or belittle the point or make it a big point or anything else, but the one thing I can see is, supposing that section 13 of this bill were to be debated by proxy with 10 people at a meeting—and I don't know what your membership is. Suppose it's 500 and there are 10 people at this meeting and they have all the other proxies and they vote to delete that section. Then all of a sudden we have a closed shop and it would make changes.

All I'm looking at are the safeguards in terms of changes to the bylaws or anything else that is in your constitution or any other part. There is a possibility of an abuse if there is not a safeguard in place to make sure that someone is not collecting proxies for certain functions or for certain pieces of your organization, to change certain aspects of your organization. That is a concern I have as far as the proxy is concerned. I probably shouldn't have that concern, because I think you'll probably look after it, but it's something that maybe you should look at in the future.

Mr Hansen: I'm going to support this bill. As a homeowner, and I'm sort of a handyman too, but there are a lot of people out there—

Mrs MacKinnon: That's the kind of people I like.

The Chair: It's the blue thumb club.

Mr Hansen: There are a lot of handymen out there, I can tell you. But the thing is that purchasing an older home, say, built in the 1920s—

The Chair: How about the 1870s, like mine?

Mr Hansen: Well, whatever. The thing is that I would like to know, if I called the Better Business Bureau to find out about a person inspecting homes, even though the rate could be \$100 for one and \$200 for the other—you could be paying \$200 for this inspection which is poorer than the one you're getting for \$100 if

the man isn't qualified to do the job. He might have a fancy sign and a big ad in the telephone directory, but he doesn't know beans about hydro, he doesn't know beans about house inspection, just a fancy card or a fancy sign.

This way you can regulate. You know what you're getting for your money. I think that if you're going to regulate yourselves and set the standards, then the standards most likely will keep going up as the organization grows.

We had the town planners in here I believe two weeks ago with a bill. There were objectors, people who just object to joining anything. You're going to get that, but I don't see anybody objecting today. They had the opportunity to come forward to this committee. So, therefore, I'm going to support this bill.

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Mr Jordan: Supposing you inspect my home and it meets all requirements, in your opinion. Do you have a stamp or certificate or something I can have or just a receipt that the inspection has been done?

Mr Carson: Normally, after we complete an inspection on the home, if you hired us we would provide you with a report, and the report would outline the conditions that we observed at the time. We are not out there to provide you with a guarantee or with a certificate as such, but yet we do have responsibilities for the accuracy of what we do state.

Mr Jordan: But there wouldn't be a sticker on my furnace or on my electrical panel or on my septic system that said it's been inspected and passed your requirements.

Mr Carson: No, there isn't, sir, because we have viewed ourselves as not being code enforcers or working to the code, so we prefer to stay away from that. That doesn't preclude us from getting into some sort of program like that in the future if some ministry or that asks us to get involved. But no, we currently don't have such a program.

Mr Ron Eddy (Brant-Haldimand): I'm pleased to support the bill. Noting Mr Hansen's speech, I would have preferred if he'd said he was a handy person around the house rather than the term he used, but we'll let that go by. I think the self-regulation of professions and people who gear themselves for professional status is very important in our society today, and I agree with the application.

Mr Hansen: Would you like me to, on Hansard, change the word—

The Chair: Mr Hansen, thank you.

Mr Hansen: I'm sorry.

The Chair: We do have a list. We do try to keep some order.

Mr Hayes: You've got to address Mr Hansen the proper way, I think. He said a handyman; it should be a handy person. But I think it's really the blue thumb club, like the Chair said earlier.

In regard to Mr Fletcher's question, and I don't think you responded to that, in terms of voting by proxy or any other way, they can't just vote to take the section out of

this bill, because it's in the statutes.

Mr Fletcher: The bylaws can't be changed.

Mr Hayes: Yes. They can't be.

The Chair: At this juncture, I would ask if members are ready to vote. Agreed? Agreed.

Shall sections 1 through 15 carry? I declare the motion carried.

Shall the schedule carry? I declare the schedule carried.

Shall the preamble carry? I declare the preamble carried.

Shall the title carry? I declare the title carried.

Shall the bill carry? I declare the bill carried.

Shall I report the bill to the House? Agreed.

Gentlemen, my 1870 house appreciates your being out there. Thank you.

Mr Hansen: You should have had them check it before you bought it.

The Chair: I know, with the urea formaldehyde insulation.

YOUNG MEN'S CHRISTIAN ASSOCIATION OF CAMBRIDGE ACT, 1994

Consideration of Bill Pr120, An Act respecting the Young Men's Christian Association of Cambridge.

The Chair: We will now return to a previous bill, which is Bill Pr120, An Act respecting the Young Men's Christian Association of Cambridge. All members have, in the meantime, received copies of a series of motions that will be amending sections in that bill, Pr120.

I welcome back the Y from Cambridge. Mr Pavey, do you have any remarks to make at this time?

Mr Pavey: We have discussed and were aware prior to coming to today's meeting of the request for these amendments. We accept these amendments; they are quite agreeable to the YMCA of Cambridge.

The Chair: Mr Irving, would you like to join us here at the front. Mr Irving, you're an interested party who obviously has some concerns relating to this bill, and this is your opportunity to put your case on the record.

Mr Bill Irving: I am Bill Irving, president of the United Kingdom Club of Cambridge. We have an ongoing dispute with council regarding the tax-exempt status for our club based on a problem which arose. That is not a problem for this meeting. The reason I'm stating that is that I come representing 80% at least of the citizens in Cambridge, and that's without a word of a lie.

We are not asking at this particular time that you dismiss this application. We are asking that you return it to Cambridge council. This council has no credibility in the method it gives release to go for tax exemption. This problem has never been presented to the citizens of Cambridge. There was a headline article in the paper that "Council Decides to Pass it Without any Representation." When that headline appeared in the paper, I had enough of those pages with that headline on it offered to me, I could have papered a room in my house with it. That's how much they're objecting to it.

The problem is that this thing is not as open as it seems. For instance, we're contending that council is

attempting to railroad this application through by avoiding any input from the citizens of Cambridge. As I said, we have the support of the citizens of Cambridge. The reason council is so anxious to get the YMCA tax-exempt is that it's going to take the onus off them to build a much-needed swimming pool in Cambridge.

According to the YMCA's status on saying, "Okay, the citizens of Cambridge will be allowed access to it," it amounts to three and a half hours per day. They've had \$1 million from the council and they have had \$1.5 million and \$1.6 million from the infrastructure. They're now looking for tax exemption and they're asking for another \$2.5 million from the public in Cambridge. For what? Three and a half hours a day? There's a little town in Ontario here, Hanover, that is building a swimming pool. They're using the infrastructure; they built it themselves.

However, there are two points we'd like to see clarified, and that's why we're asking that it be returned. It is noted that the Rotary Club is going to be located in the YMCA's premises. If they get tax-exempt status, how many clubs are going to locate in there under the banner of the tax-exempt status? Also, the YMCA in its existing building has been paying volunteers by giving them free membership, a paid membership. That is in dispute. They've stated they're not going to pay volunteers any longer, but that problem's still in dispute; it hasn't been settled. What we're afraid of, if the tax-exempt status gets through, is: "Oh, we're okay, we're in the clear now. We'll give them the membership."

There is another point too, and I think what's happening is that Cambridge council is asking this committee to take the ball off its shoulders. The present YMCA has a grant from the council in lieu of tax-exempt status, and I think what's happening here is, because they're trying to do it by a tax exemption, they don't want to make the decision and have all the citizens of Cambridge down on them. They're passing the buck to you people to say, "Okay, we agree to it."

1030

The Chair: Thank you, Mr Irving. Mr Hayes, did you have any additional remarks to make?

Mr Hayes: We do have a number of motions to go into this bill for amendments, but the ministry will not object to the request if the following conditions are met: that the bill reflects the consent of upper-tier and school boards affected, that the exemption applies to a specific property, that the YMCA should apply for each exemption, and the schedule is required to describe the property to be exempt.

Mr Hansen: Some of the items the objector has stated to the committee, if the presenters wouldn't mind responding—for instance, with the Rotary Club, I take it the Rotary Club could not get an exemption on the property if the YMCA didn't own the building; they'd have to own the building in order to get the exemption. If the Rotary Club owned its own building, a Rotary Club building, on its land, it would have to pay tax. Maybe the ministry can answer that one also, but I would appreciate the presenters reply to the objector's concerns.

Mr Pavey: Certainly. To the members of the committee, I'd like to correct Mr Irving's comment. What is going in as part of the shared use of facilities is the Rotary Children's Centre, which is a facility that provides services to what I would call disadvantaged children; handicapped children, in the old vernacular. It is a centre financially supported by the Rotary Club throughout Cambridge. It is not the Rotary Club premises that we're talking about here at all. It's a children's centre.

Dealing, if I may, with some of the other comments, I would take issue with Mr Irving's comment that he represents 80% of the citizens of Cambridge. I'm not sure where that came from.

I should give you a bit of background, because I knew about the United Kingdom's objections in our previous appearances before the committee in June of this year. The United Kingdom Club purchased a parcel of land from the city of Cambridge in July 1990. The actual deed to that property contains a series of development covenants, and it specifically says in that document that the club would in any event pay all municipal realty taxes on the lands during its period of ownership.

These particular lands occupied by the United Kingdom Club are in an area which the city of Cambridge called International Village; there are located the United Kingdom Club, the Galt Curling Club, the Armenian Community Centre, and the Islamic Centre. Apparently the Islamic Centre and the Armenian centre have been exempted from taxation as lands being held or used by religious organizations. The Galt Curling Club and, obviously, by Mr Irving's remarks, the United Kingdom Club pay realty taxes.

The United Kingdom Club early in 1994 requested the city of Cambridge to pass a resolution supporting their request for an exemption from taxation which, I understand, they would not do. It would appear to me that the United Kingdom Club, rather than pursuing its concerns with the city, is now objecting to the bill being presented on behalf of the YMCA of Cambridge. I would suggest that the concerns of the United Kingdom Club, although they certainly may have merit, are a separate issue from the YMCA private member's bill before this committee.

Mr Irving: We accept the fact that this issue is not to do with the YMCA. What we have to do here is get some credibility from Cambridge council.

The man is making the statement here the same as council made. He states that we agreed to pay our taxes; so did the Islamics, so did the Armenian centre. The Armenian centre paid its taxes for three years until they built a mosque.

In that covenant on International Village Drive, churches and schools are not allowed. However, council was having difficulty selling the property and allowed a school to go through. The Islamic society held it from 1985 to 1987 and never built anything on it, although the religious clause was lifted for the whole International Village. In 1987, council then decided, "We'd better recognize that they're building a mosque." That mosque was built under the recognition of council and the Islamics then went to the regional assessment board and got tax-exempt status.

The Armenian club sued them for \$2 million because they signed the same covenant as everybody else: no religious services. In the settlement with the Armenian club—by the way, our friend from the YMCA brings up the religious clause. In the settlement with the Armenian club, the club told council they were not prepared to accept anything on religious grounds, simply because they had got a huge grant from Wintario and if it was accepted that they were building a church they'd have to give it back.

So in its wisdom, council agreed to come to provincial government, which you people passed in September 1991, an act granting the Armenian club tax-exempt status. However, in that agreement with council, you should recognize the fact that not only did they agree to allow them to go to tax-exempt status but, if this government failed to pass it, council in its own right would allow them the same status as the Islamics. Not only that, but they also agreed they would allow the Armenian club to buy lot 6B on the drive at a nominal sum and it would carry the same exemption as their original property.

We bought lot 6B in April 1991. The bill didn't pass here until September 1991. If the lot was going to be tax-exempt for the Armenian club—and this is our objection—we think we have a very strong case. As a matter of fact, it's not a question of tax exemption. We have stated quite frankly from the beginning that we are only after equality of tenure. If they remove the tax exemption from those two clubs, we're quite prepared to pay our taxes.

What you have to remember here is that only three clubs are ever going to be on that. The Armenian club has bought the rest of the property for a school, and it's going to be tax-exempt. The covenant on these three properties is the same for each of the clubs, and yet it's been used in three different directions by council. That is why we're taking exception to the YMCA.

Mr Cooper: To straighten something out here, I think these arguments should be made at Cambridge council. What we're doing is passing enabling legislation, that the corporation of Cambridge can pass bylaws exempting them; we aren't giving the exemptions here. The arguments you're putting forward should be argued at council.

Mrs MacKinnon: My question is to you, Mr Cooper. Don't look so surprised; I do this once in a while.

The Chair: I'm not sure that's in order.

Mrs MacKinnon: Through you, Madam Chair, to Mr Cooper, if I may. Are you saying that when we pass bills here for tax exemptions—which I have a great deal of difficulty with, I might add—it's only enabling legislation for the municipality from which it's being applied?

Mr Cooper: That's right. It enables the corporation of the city of Cambridge to pass certain bylaws.

Mrs MacKinnon: Therefore, if the municipality of Cambridge council sees fit not to grant this or any other tax exemption, it can still do so?

Mr Cooper: That's correct.

Mrs MacKinnon: I wonder how many people really know that.

Mr Pavey: I knew that.

Mrs MacKinnon: I'm sure you do. That's all the legal minds. I don't have a legal mind.

Mr Cooper: If I may, Mrs MacKinnon, some of the things stated in the committee are, do they have agreement with the boards of education or with the corporations? That's one of the things that is always brought forward, because if there is no agreement, what is the sense in us passing enabling legislation?

Mrs MacKinnon: I'm aware of the boards of education situation. I wasn't aware of the municipality situation. I was under the opinion that if we granted it here, that's it.

Mr Cooper: No.

Mr Eddy: I knew that, that it is enabling legislation specifically to the city of Cambridge.

Mrs MacKinnon: Good for you, you municipal warhorse.

Mr Eddy: Thank you for that compliment. I do appreciate that.

The Chair: I think these midnight sessions are doing something to members.

Mr Eddy: They do affect most of us, Madam Chair. They've affected me somewhat, but not in the same way.
1040

I think it shows the importance of having general legislation in the Municipal Act that enables any municipality to grant similar tax exemptions, providing they follow certain rules, and the rules are in place for this. It is important at some time to proceed with that, and then it would be up to the municipal councils to deal with the applications, as it will be to deal with this application by Cambridge council if this is passed. I do support it.

The Chair: For the information of members, Mr Hayes has requested a few minutes after we complete the vote on Bill Pr120 to put on the record some thoughts from the ministry regarding these kinds of requests, and we've received a number of them in recent weeks. We've had a consistent policy, but this is definitely to put it on the record once again, for all to know and understand.

If there are no further questions at this time, I'm going to ask members if they are prepared to vote.

Interjections: Agreed.

Mr Hansen: Madam Chair, I have a motion on section 1. I move that section 1 of the bill be struck out and the following substituted:

"Tax cancellation

"(1) The council of the corporation of the city of Cambridge may pass bylaws cancelling the taxes payable for municipal purposes, other than local improvement rates, on the land, as defined in the Assessment Act described in the schedule and owned by the association if,

"(a) the land is owned, occupied and used solely for the purposes of the association; and

"(b) the association is a registered charity within the meaning of the Income Tax Act (Canada).

"Conditions

"(2) A tax cancellation under subsection (1) may be

subject to such conditions as may be set out in the bylaw.

"School board

"(3) If a tax cancellation bylaw is in effect under subsection (1), a school board entitled to share in the assessment for school purposes of the land described in subsection (1) may by resolution direct the corporation to cancel the taxes payable on the land for the purposes of the board.

"Notice

"(4) A school board that passes a resolution under subsection (3) shall forward a copy of it to the corporation and to any other school board entitled to share in the assessment.

"Region

"(5) If a tax cancellation bylaw is in effect under subsection (1), the corporation of the regional municipality of Waterloo may by resolution direct the corporation to cancel the taxes payable on the land for regional purposes.

"Notice

"(6) The corporation of the regional municipality of Waterloo shall forward a copy of a resolution passed under subsection (5) to the corporation.

"Further cancellation

"(7) When the corporation receives a resolution passed under this section from a school board, it shall by bylaw cancel the taxes directed to be cancelled by the resolution.

"Same

"(8) When the corporation receives a resolution passed under this section from the regional municipality of Waterloo, it shall by bylaw cancel the taxes directed to be cancelled by the resolution.

"Duration

"(9) A bylaw passed under subsection (7) or (8) remains in effect so long as all resolutions passed under subsection (3) or (5), respectively, remain in effect.

"Bylaw ceases to have effect

"(10) A bylaw passed under this section ceases to have effect if either of the conditions set out in clauses 1(a) and (b) is not met."

The Chair: I would ask you to stop there, as you are going into a brand-new section under "Notification." Is there a discussion on the motion?

Mr Eddy: I just have a question about 1(1)(a), "the land is owned, occupied and used solely for the purposes of the association." Realizing that the applicant has stated that the Rotary Club will establish a children's centre in the building, should this clause be changed in some way or is there no problem legally in interpretation? It was simply a question.

Mr Pavey: If I may, Madam Chairman, the children's centre in its own right is an exempt organization, so we aren't concerned.

Mr Eddy: Thanks. That answers my question.

The Chair: Members have heard the motion. All those in favour, please signify. Any opposed? Seeing none, that is carried.

Shall section 1, as amended, carry? Carried.

Mr Hansen, if you'd like to continue with new section 1.1.

Mr Hansen: "Notification

"1.1 (1) The clerk of the corporation shall forward a copy of a bylaw passed under subsection 1(7) to the Minister of Education and Training and shall notify the minister if the bylaw ceases to be in effect.

"Same

"(2) The clerk of the corporation shall forward a copy of any bylaw passed under section 1 to the assessment commissioner and shall notify the assessment commissioner if any bylaw ceases to be in effect.

"Collector's roll

"(3) The treasurer of the corporation shall strike from the collector's roll each year that portion of the taxes that is no longer due and payable by reason of a bylaw passed under section 1."

The Chair: If you'd like to hold again, we have another new section. We're voting on new section 1.1, an addition to the bill. All those in favour of the motion as read? Any opposed? Seeing none, that amendment would be carried, or the new section would be carried.

Mr Hansen: "Chargeback

"1.2(1) For the purposes of section 421 of the Municipal Act, the entire amount of taxes cancelled by a bylaw passed under subsections 1(7) and (8) shall be charged back in each year to the school board and regional municipality to which they would otherwise have been payable.

"Notification

"(2) The clerk of the corporation shall notify the Minister of Education and Training of the amount of taxes charged back to a school board under subsection (1)."

1050

The Chair: Thank you. So we have a new section 1.2. All those in favour of 1.2 as read? Any opposed? That is carried.

Mr Hansen: "Retroactive

"1.3 A bylaw or a resolution passed under this act may be retroactive to January 1, 1994."

The Chair: Everyone has heard the motion. All those in favour of 1.3, as read, please indicate. Any opposed? That motion is carried.

Section 2: Mr Hansen?

Mr Hansen: The motion is that the government recommends voting against section 2.

The Chair: Okay, it's not an amendment; it is to be repealed. There is that thing called "to repeal."

Shall section 2 carry?

Interjections: No.

The Chair: That is defeated then.

Shall section 3 carry? Carried.

Shall section 4 carry? Any opposed? Seeing none, that's carried.

The preamble.

Mr Hansen: I want to make a motion on this, Madam Chair. On the preamble, I move—

The Chair: Hang on. I've been informed by the clerk you should do the schedule next.

Mr Hansen: I move that the bill be amended by adding the following schedule:

"The land situate in the city of Cambridge, being lot 46, registrar's compiled plan 1376, in the land registry office for the registry division of Waterloo South (number 67)."

The Chair: All members have heard the motion that is before you. All those in favour, please indicate? Any opposed? Seeing none, that's carried.

Mr Hansen: Now may I go on with the preamble, Madam Chair?

The Chair: Absolutely.

Mr Hansen: I move that the preamble to the bill be amended by striking out "to enable the council of the corporation of the city of Cambridge to exempt that land and any other land acquired by the association from taxation for municipal and school purposes" at the end of the first paragraph and substituting "to authorize the cancellation of taxes for municipal and school purposes in respect of that land."

Do I go like this when I've got those little marks?

The Chair: You can say "quotation marks," if you'd really like. It's a little hard to record that on Hansard. It's getting worse, I know.

Mr Hansen: And it's only 11 o'clock.

The Chair: I know, and it's going to midnight tonight.

All members have heard the motion regarding the preamble. All those in favour, please signify. Any opposed? That's carried.

Mr Hansen: I have another motion here, Madam Chair.

The Chair: That'll be at the end, please.

Shall the preamble, as amended, carry? Carried.

Shall the title carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Agreed.

Mr Hansen: My final motion on this particular bill:

I move that the committee recommend that the fees and the actual cost of printing at all stages and in the annual statutes be remitted on Bill Pr120, An Act respecting the Young Men's Christian Association of Cambridge.

The Chair: All members have heard the motion. Please signify if you're in favour. Any opposed? Seeing none, that's carried.

Gentlemen, I hope that meets your satisfaction. It put you through a few more paces this morning than expected, but I think you've probably got your desired result.

Mr Jordan: I think it's right to point out to Mr Irving, who says he represents 80% of the taxpayers in

Cambridge, that this is strictly enabling legislation.

The Chair: It's back in the municipality's hands, yes.

Mr Jordan: Democracy is still with he and his council and the town of Cambridge. We haven't dictated anything here.

Mr Irving: Yes, and I'm going to use public financing, along with the United Kingdom Club, to the member, from the YMCA, where I will debate with the citizens of Cambridge this matter.

The Chair: At this juncture I'm going to turn to Mr Hayes to read into the record the ministry position on these kinds of matters.

TAX-EXEMPTION BILLS

Mr Hayes: I'd like to actually make a statement regarding the tax-exemption bills. Of course, these past few weeks we've been asked to consider more bills from organizations requesting that municipalities be empowered to grant tax exemptions. All of them were deferred when they initially came to this committee. The main reason for deferrals was that organizations were not clear on what was expected of them before they came to the committee.

More specifically, they had failed to secure the clear support of the relevant school boards and, where one existed, the upper-tier municipality. Staff from the ministries of Municipal Affairs and Education and Training worked with some of the organizations to redraft the bills to make it clear that upper-tier and school board support were required before their taxes were forgiven.

In effect, the redrafts incorporated the committee's criteria in the body of the bill. I think that this will make the conditions for tax concessions clearer to future applicants and will help to improve the process related to these bills by ensuring that accountability provisions are satisfied.

In reviewing the bills, staff raised some fundamental concerns. For example, should organizations come forward to ask that municipalities be empowered to grant them tax exemptions? That's one question. Or, since it is the municipalities that are being empowered, shouldn't it be on the basis that those municipalities requested that authority? If municipalities came forward instead, the process would be significantly streamlined.

Maybe what we should be doing, committee members, is discussing this and other issues before any similar bills are heard at the next session. I think it's an issue that we should be certainly looking at and I think we all have some concerns about what is happening here. You've heard me say before that the municipalities will ask to give some organization a tax exemption and then of course at the same time there is the concern there that the municipality will see a shortfall and will come to the provincial government for further funding to make up for that. I think it would streamline the process, because sometimes some municipalities may not really know or realize some of the concerns that may be there, and if they support it then they should be coming here.

Mr Eddy: I appreciate the paper that you've just read, parliamentary assistant, and it is what I would term a small step towards streamlining it. I'm not completely familiar with the rules under which applicants can receive

an appointment and make an application to this committee for passing of a private bill, and I don't agree with precluding any organization that wishes to come forward. However, I do agree that it would be excellent if the municipality was the sponsor of a bill enabling itself to indeed do these things.

1100

But in the case of a municipality that does not wish to come forward and bear the cost—and perhaps that's indeed why organizations make the applications and come forward and are willing to bear the cost, in the hope that there will be gain by reduction of taxes.

I don't know the mechanics for agreeing to this or whether it's a ministry that decides this or indeed officials under the direction of this committee, and I'd like an explanation of that. But I can see, where an organization makes such an application to enable the appropriate municipal council to pass such a bylaw, that they would be requested to do the following things, along the lines you've pointed out. It would help in that way, but we would still have organizations come forward.

But I really feel that we should look at the Municipal Act and go much further and have an amendment to the Municipal Act enabling all municipalities to pass such bylaws, "providing the following rules are met." Now I know there would be a list of conditions to be met, and would have to be.

Interjection.

Mr Eddy: Yes, I know it would be lengthy, it would take a bit of time to do that. But do you realize the amount of time it would save the Legislature when you consider the amount of work the committee has and then presenting them to the Legislative Assembly? And it would save the time, because we have applicants coming from all across this province, having to journey to Toronto, sometimes in adverse weather, sometimes worse than today even. Is it really necessary?

If the local municipality wishes to take the responsibility and wishes to deal with organizations that apply, to exempt from municipal taxes, and wishes to go through the procedure to obtain the approval of the upper tier, follow the same procedure—upper tier by resolution—agreeing to that and also the appropriate school board, what's really wrong with doing that? It would seem to me that we really should go that route and make it much more efficient.

We're really not making the decision to exempt anyone from taxation, as has been pointed out by several of the members. We're not doing that at all. All we're doing is saying, in this case to the city of Cambridge, "You may deal with an application and you may exempt an organization from municipal taxes under certain conditions, and you may do it also for regional taxes or the upper-tier taxes, if the upper-tier council agrees, and for education purposes if the appropriate board of education agrees."

In looking at the whole thing—and I'm disappointed that it hasn't come forward in this regard because, as you know, I would go much further. I would go as far as enabling municipalities to do whatever they deem necess-

ary for the health and welfare of their constituents and such other things as they deem necessary and appropriate, realizing that it's the elected municipal councils that make the final decision and stand for election before the local people to justify their decisions. So I think it could be much more efficient.

I would go even further and say that municipalities are enabled to pass bylaws to do anything, take any action, unless prohibited by some statute. Now that's going to the ultimate, but I think we're at a time in our society when people are absolutely upset and averse to various levels of government dealing with so many aspects of their life which really aren't necessary. That's my view, but thank you very much for bringing this forward because it is a help and it does assist in streamlining.

The Chair: Members of the committee, I understand that Mr Hayes has put forward something that we'd all like to debate. Mr Eddy has made the first salvo and we have two or three other speakers on the list. I know we scheduled some extra time on this matter, but the problem is, to be very clear to all of you, we have three other bills to deal with and we still have additional business regarding our report. I'm in your hands, and obviously you feel that you want to discuss this, but I think we do have to remember we have people on our agenda. Probably at the end of the day, we could set aside some time when we next meet to deal with this situation.

Mr Fletcher: It's too late. The debate's started.

Mr Hansen: The debate's started, and I had my hand up. I could have said what you said in all that length of time in one short sentence.

The Chair: That's one of the privileges of the Chair.

Mr Jordan: I was going to say everything Ron said in two words.

The Chair: Mr Jordan, you're next.

Mr Jordan: I'm not going to make a long preamble, as my colleague has here. I think what he's saying, really, and what I wanted to say is that it's time to amend the Municipal Act. I would like to give that direction to the ministry.

The second point I would like to make is that these people coming forward asking us for this enabling legislation should be accompanied with a motion from council stating to the effect, "We're willing to act on your behalf, provided we are given the authority by the upper tier or by the provincial government." Then, when they come in here, they are not getting power here to go back and say to their local council, "Look, you've got the power; now get off your so-and-so and do something." They have the authority from municipal council when they come here and it's at their cost to ask for this enabling legislation, so when they go back, they know there's going to be some action on it, because they can go back and nothing can happen and they've spent all this money.

The Chair: Mr Hayes, did you want to quickly explain a couple of points?

Mr Hayes: I guess my timing wasn't very good here. I did say we should discuss this issue prior to similar bills for tax exemption coming back to this committee,

and I wasn't suggesting that we start debating this issue now. I agree with the Chair that we have other bills and we have people who have been waiting here very patiently to get on, and this is just an issue we want you to look at and think about, and I agree with most of the comments that were made on it too.

Mr Fletcher: If it is our mandate to discuss this, we should set some time aside to discuss this issue. I know time is short right now—

Mrs MacKinnon: It's on today's agenda.

Mr Fletcher: Where is it?

Mrs MacKinnon: Right at the very bottom.

Mr Fletcher: That's review of business and regulations, 1993-94. What I was thinking, along with Mr Eddy, was that perhaps there should be an amendment, but we have to be careful about whatever amendments we're suggesting. We don't want competition between municipalities or anything else and exemptions or loopholes that can allow certain practices to occur that we don't wish to see occurring throughout the province of Ontario, and I think that's why there were amendments put into the Municipal Act way back to prevent that sort of thing. I think that's something that we have to be looking at when we do discuss, but I do agree, we should have this up some time in the future for discussion.

Mr Hansen: What I'd like to say is that we have to look very closely at shifting taxes in the municipality. I realize that the one gentleman who belonged to the United Kingdom Club is a taxpayer in Cambridge, and all they're doing is, if that tax of \$30,000 is not being paid by the YMCA, someone else has to pick it up, so it shifts. So if he's got a club, his rates will go up a little bit more because some other organization's been tax-exempt for the services. I think we have to be very careful, and I don't want to get beat up, as a provincial member, with people at the municipal level saying, "Well, the province didn't do it," or, "The province did it; that's the problem." We have to work together and we have to come up with a solution to this that's acceptable to all parties.

1110

CITY OF HAMILTON ACT, 1994

Consideration of Bill Pr140, An Act respecting the City of Hamilton.

The Chair: At this point, I'm going to call our next order of business, which is Bill Pr140, An Act respecting the city of Hamilton. I don't see Mr Abel, so Mr Cooper, if you would please shift your chair over a notch and introduce the applicant, please.

Mr Cooper: As committee members know, Mr Abel's taking the employers' health and safety course, so he asked me last night if I would sponsor Bill Pr140, An Act respecting the City of Hamilton, on his behalf. I am pleased to present Lorne Farr, the solicitor for the city of Hamilton, and Nina Chapple, the planner for heritage.

The Chair: Mr Farr, if you would like to make your opening remarks.

Mr Lorne Farr: Yes, thank you, Madam Chair, members of the committee and Mr Cooper. This is an

application by the city of Hamilton for special legislation to allow the city to delay demolition permits of designated historical properties longer than the 180 days allowed under the present Ontario Heritage Act.

As noted, the Ontario Heritage Act presently only allows the municipality to delay the demolition permit on a designated heritage property for 180 days. The proposed bill would allow the city to delay that demolition permit until the applicant-owner of the property has applied for a building permit for a new building on that site and received the building permit.

The applicant-owner of the property has the right of appeal to the Ontario Municipal Board for any council decision and this bill is modeled on many other bills that have come before this committee: the City of Toronto Act of 1987, the Town of Oakville Act, the Town of Markham Act, and the recent City of Burlington Act of this year.

Ms Chapple has just a few comments on the technical aspects of the bill.

Ms Nina Chapple: I would just like to speak to the need for this legislation in Hamilton. We've been experiencing quite a bit of demolition in the downtown area, as a number of other municipalities have, and there is a growing concern that good buildings—historic buildings or just good, solid buildings—are coming down because the taxes for a parking lot or a vacant lot are much lower. According to Marc Denhez, a lawyer in Ottawa, the rate is reduced by two thirds when it becomes a parking lot, so it's a very serious economic concern.

We haven't lost many designated buildings to date in Hamilton, but this legislation would extend demolition control to about 33 other buildings which would include churches—and we are now experiencing vacant churches too—and schools, as well as downtown commercial and industrial buildings. It was unanimous support from the advisory committee to council and a unanimous vote in council for this request for special legislation.

The Chair: Are there any other interested parties who wish to come forward? Seeing none, Mr Hayes.

Mr Hayes: The Ministry of Culture, Tourism and Recreation has not objected to this bill. If amendments are made to the Ontario Heritage Act, for example, it would be intended that general legislation, if and when it comes, will eventually supersede all these private bills. Therefore, the Ministry of Municipal Affairs does not object on that basis.

The Chair: Thank you, Mr Hayes. Any members who wish to make any comments or questions?

Mr Jordan: I'd just like to point out that the 180 days is renewable. As you come near the end of it, the municipal council can delay again, as I understand it, for another 180 days.

Mr Farr: If you would like me to respond, that's not our understanding. It's that at the municipal level, there's only one denial or one approval of the demolition, and I believe other municipalities believe there's only that one time that council can deny it.

Mr Jordan: Perhaps the parliamentary assistant would be able to advise on that.

The Chair: Mr Hayes?

Mr Hayes: What's the question?

The Chair: Mr Jordan asked if a demolition permit can be extended, more than one kick at the can. Basically, Mr Farr said his opinion is no, but Mr Jordan is under the impression that maybe it can.

Mr Hayes: We'll let our legal staff respond to that.

Mr Paul Murray: Paul Murray, solicitor with the Ministry of Municipal Affairs. My understanding of the act is that it provides that it can only be extended with the agreement of the municipality and the applicant whose property's in question. So you'd have to have the agreement to have the time extended. If the applicant didn't agree, then the six months would end. That's my understanding.

Mr Jordan: That's what I wanted, the explanation. But my experience has been that normally the applicant and the council—if the council is strong on wanting it extended for good reason. If, as they pointed out, the replacement structure or whatever it's going to be used for is not acceptable to council or there's some conflict with the official plan, you can renew your time period there, as I understood it, with the agreement of the person wanting to demolish the building.

Mr Murray: As to what the actual practice is at the local level, I think perhaps the proponent could speak better to what actually occurs in terms of how readily agreement is obtained. But in terms of what's permitted under the act, my understanding is that the applicant's agreement is required.

Mr Jordan: It's just like any other law or regulation: If the will is not there, of your local council and the will of the owner of the property, it's very difficult to keep the lid on because it's going to happen. Laws can be guidelines, but you still have to have that will to serve and the will to represent the people and, in this instance, the heritage of the property and so on.

We have some experience in my own riding with it and we were able to control it through getting more time and eventually, in some cases, we got cancellation of it completely. What we did was put enough restrictions on what was going to be replaced that it wasn't a money-making venture any more, so they walked away from it. However, I'll be supporting the legislation.

The Chair: Thank you, Mr Jordan. Any other questions? Seeing none, are members ready to vote? Agreed.

Shall sections 1, 2 and 3 carry? Carried.

Mr Hansen: Madam Chair, I have a motion.

I move that subsection 4(1) of the bill be amended by striking out "2(6)" in the sixth line and in clause (a) and substituting "2(7)" in each case—with those little quotations.

The Chair: I hope Hansard recognized Mr Hansen's movements indicating quotation marks.

All members have heard the motion regarding the amendment. All those in favour of that motion, please indicate. Agreed.

Shall section 4, as amended, carry? Carried.

Shall sections 5 through 10 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Agreed.

I'd like to thank the city of Hamilton for taking this very good step to protect its heritage.

1120

COUNTY OF KENT
LOCAL MUNICIPALITIES ACT, 1994
COUNTY OF KENT ACT, 1994

Consideration of Bill Pr159, An Act respecting the County of Kent and the Local Municipalities in it, and Bill Pr160, An Act respecting the County of Kent.

The Chair: Our next order of business is Bill Pr159, An Act respecting the County of Kent and the Local Municipalities in it. I thank Mr Cooper for acting on Mr Hayes's behalf. I'll bet you Mr Hayes does too. Mr Cooper, would you like to introduce the applicant.

Mr Cooper: Once again, it's a pleasure on behalf of my colleague Pat Hayes to sponsor Bill Pr159, An Act respecting the County of Kent and the Local Municipalities in it. With me are Ms Kuchta, acting clerk, county of Kent; David Langstaff, the warden; and Sheldon Parsons, the clerk for Wallaceburg.

The Chair: Could you introduce yourself for Hansard, please.

Mr David Langstaff: I'm David Langstaff, warden of the county of Kent. My remarks are put together to address both Pr159 and Pr160, which are two bills that interrelate. Bill Pr159 addresses changes to local government while Bill Pr160 represents the composition of county council.

The Chair: I will just ask members: Mr Langstaff would like to deal with these two bills which, as he indicates, are interrelated. Any problems in allowing his remarks to embrace both bills? Then we'll deal with the votes separately when it comes to that point.

Mrs MacKinnon: So moved.

The Chair: Agreed? Agreed. Mr Langstaff, please continue.

Mr Langstaff: These bills that are being requested by Kent county council are the result of a very lengthy study process that we have carried out throughout the last three years. That study process had a very extensive consultation with both the public and local municipalities, as well as county council being involved. They are part of a number of changes that are going to be made that will result in major changes to the government process in Kent.

The changes asked for here have the unanimous support of county council and our member municipalities and address the service issues of Kent county council and the composition of the council. Briefly, those changes are:

—The heads and deputy heads of local government will be on county council according to population. A number of towns are able to downsize their local councils, so there's a desire to restructure at that level and we

were able to fold that into the bill.

—It also addresses a serious inequity in the voting structure that will give larger municipalities such as Wallaceburg—there are five municipalities altogether that will receive more votes on county council, and it will come a bit closer to representation by population. We think it is extremely important to try to get this clause put in as soon as possible.

—It also allows for the substitution of head of council for lengthy absences. This is probably the most controversial clause, I believe. Our council believed there were possibilities that the clause that's included in the Municipal Act might be subject to some abuse. Although we agreed that substitution should be allowed, we were somewhat concerned that a mayor might be able to call his substitute on the morning of county council, and he or she would be at county council without being prepared to deal with the types of issues that we deal with.

—The other issue is that there will be a change of names, which is mayors, and will allow for the election of a deputy mayor if the population warrants it.

I have two major points for which I ask your support: The first one again is the serious issue of voting structure, and we ask that you give this request consideration for immediate implementation; and we urge you to consider whether we can keep the substitution clause or clarify what the substitution clause means within the Municipal Act. I would remind you that many of the issues that county council considers have major impacts on our local municipalities, and it can be a real hardship for a municipality to be without a representative for an extended period of time.

I want to thank the committee on behalf of Kent county council and particularly the part that Mr Hayes, our member, has played in the development of these bills. We are pleased to answer any questions you might have.

The Chair: I'm obligated to ask if there are any other interested parties who wish to come forward at this time. Since the room is almost empty, we can assume that no one is going to be coming forward. Mr Hayes, it's your turn.

Mr Hayes: I must say that the people in Kent county, the politicians and the staff, worked very hard and long for this to try to restructure or streamline their own process, and I compliment them on that. I just want to say that the ministry is not objecting to the bill; however, the ministry does not support section 3 of the bill regarding the substitution at county council.

The Chair: Bill 160.

Mr Hayes: On Bill 160, yes. Members of county council have to consider all the views and not one particular municipality.

The Ministry of Municipal Affairs also recommends an amendment to paragraph 5 of subsection 4(1) of the bill. Each paragraph in this section sets out the number of votes a local municipality has at county council based upon its numbers of electors. For consistency, paragraph 5 should be amended to establish an electoral range of more than 4,500 and not more than 7,500 electors. That's more just a technical amendment. But if section 3 is

removed from this bill—the ministry, I think I said, made its recommendations on this section 3. We don't really object to it, but we'd like to see the amendments made. That's all I have to say.

The Chair: I open the floor to questions from members.

Mr Eddy: We're dealing with both bills in the discussion?

The Chair: As far as comments, yes.

Mr Eddy: I'd like to compliment the representatives of the county of Kent for coming forward with these changes. There could be a simpler procedure, of course, and that would be to amend the Municipal Act to allow any county, with the approval of its constituent municipal councils, to deal with all these matters, particularly the second one, having to do with the composition of county council based somewhat on population.

The first bill, Bill 159, is a very important issue, and it's something that should be across the province. The elected head of any local municipality should be the mayor, and then the deputy mayor is a position that is optional. But the importance of that is simply that there's confusion in the minds of the electorate about the different positions. The head of a town council of course is a mayor. The elected head of a township or a village is a reeve, except in restructured municipalities, where they are mayors. I've long supported that particular issue, and it's great to see it come forward.

This means, of course, the big change here is that now the elected heads of the towns, who are mayors at present, will now sit on county council for the first time. I think that's awfully important and a good measure.

Going to Bill 160, the substitution clause is interesting in that it's one of the most debated issues, has been over the years, by municipal associations and municipalities, and I do agree with the wording here. I think you've faced the matter and come up with a proposal that suits your purposes, so congratulations. I'm certainly pleased to support both bills.

Mr O'Neil: Do the petitioners agree with the amendments that have been suggested by the government?

Mr Langstaff: We would like to be able to keep the substitution clause in. However, the most important thing is that we have the bill passed, that we're able to implement issues that are very serious. Having mayors on county council is one of the major thrusts of the bill, and certainly we do need that in place. Therefore, I do urge you to pass the bill and pass it with changes if they are necessary.

Mr Jordan: Thank you, Warden, and your members for coming forward with this. My question is, what is your opinion on the requirement of having the reeve and deputy reeve or the mayor and deputy mayor both representing the municipality at county council level? Have you ever assessed the actual need for that, relative to cost? Everyone is looking at the costs of government today, and in my riding there's considerable discussion around that matter. In fact, Renfrew county has gone to Reeves only at county council. I was wondering if you might comment on that for me.

Mr Langstaff: Yes, I would, sir. Our council gave very lengthy consideration to that issue as part of the process. It was very hotly contended. If we had gone to one per municipality on county council, it would have reduced us to 21. Some of those members would have represented large municipalities such as Wallaceburg, which has a population of 12,000. For that reason, we decided to stay with the deputies.

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The other point is that I believe it's unanimous that council considers that there will be changes within the structure of the municipalities in the future. If that had taken place, it would have dropped us from 21 members to possibly 15 or 16. We thought that this would be much too small for a municipality such as Kent.

Mr Jordan: Because you use the committee system?

Mr Langstaff: We use the committee system. Our council was very active. We're involved with all the normal boards that a council normally is, and we expect our members to be active members on those boards.

Mr Jordan: This would be off the topic a bit. Would you have any comment on the level of representation we have at the provincial level? Not the quality, now, just the quantity of representatives.

Mr Hansen: We're not getting into Common Sense today, are we?

Mr Jordan: We should be into that every day. Thank you for bringing up that title.

Mr Langstaff: Since you asked me, I am very satisfied with the type and the quality of representation that we have in Kent county.

Mr Hayes: Including the MPP.

Mr Jordan: Thank you very much. You see what I got? You owe me one now.

The Chair: Yes, and I'm quite sure there's going to be a drink exchanged or something like that.

Mr Eddy: That was not the answer we were looking for.

Mrs MacKinnon: Having gone through that wonderful Bill 35 for Lambton county, Mr Langstaff, you'll know where I'm coming from, I hope.

Mr Eddy: We should revisit that.

Mrs MacKinnon: What?

The Chair: No, no. Don't get into it.

Mrs MacKinnon: Why do you have an asterisk on page 8 beside Erieau, Erie Beach and Highgate?

The Chair: It's not in the printed bill; it's in the compendium. We have page 8, table 1.3, structured Kent county council. Mrs MacKinnon raises the point that at Erie Beach and at Highgate there are asterisks beside the numbers there. Mr Langstaff, I'm not sure if you've got the same information in front of you.

Mr Langstaff: I'm not sure I have the answer. It may be that they are represented only by a reeve on county council, having one representative, or it may be that they're the smallest municipalities in the county. Those three have populations of under 1,000.

Mrs MacKinnon: The other question I had is, I

notice there are letters of consent from various municipalities throughout that area, but I don't see Blenheim. Do they not have representation on county council at the moment?

Mr Langstaff: Yes, they do. Not all of the municipalities sent separate confirmation that they were in support, but they did indicate that support through county council, where they're represented.

The Chair: Any additional questions? Seeing none, I would ask members if they're ready to vote. All right, we will deal with them in numerical order. You will hopefully keep your amendments relating to Bill Pr160 separate. We will deal with those next. So we will be dealing only with Bill Pr159 at this moment.

Shall sections 1 through 9 carry? Carried.

Shall the schedule carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

One down. Now Bill Pr160.

Shall sections 1, 2 and 3 carry?

Interjection: No.

The Chair: No? Oh, sections 1 and 2, I'm sorry.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Section 3? No? It's defeated.

Mr Eddy: I think we should all have the opportunity—

The Chair: Would you like a—

Mr Eddy: No. We agree with it, I think.

Mr Jordan: That's a different story.

The Chair: All right. We won't get into the municipal debate here.

Section 4.

Mr Hansen: I move that paragraph 5 of subsection 4(1) be amended by adding after 4,500 and not more than 7,500.

The Chair: You forgot the quotation marks.

Mr Hansen: Do you want me to put them in?

The Chair: I think it would be wise.

Mr Hansen: Okay, "and not more than 7,500."

Mrs MacKinnon: End of quotation.

Mr Hansen: End of—period.

The Chair: All those in favour of the motion as read? Agreed.

Shall section 4, as amended, carry? Carried.

Section 5.

Mr Hansen: I have an amendment here.

I move that subsection 5(1) and subsection 5(2) of the bill be amended by striking out "sections 2 and 3" and substituting "section 2" in each case.

The Chair: All members have heard the amendment. All those in favour of the amendment, please indicate. Agreed.

Mr Hansen: I move that section 5 of the bill be amended by adding the following subsection:

"Transition

"(4) Despite the references to 'head' and 'deputy head' in section 4, the reeve and deputy reeve who are the members of county council when this act receives royal assent are entitled to the votes set out in section 4."

The Chair: All members have heard the new clause. All those in favour, please indicate. Agreed.

Shall section 5, as amended, carry? Carried.

Shall section 6 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Agreed.

1140

I hope this meets with your satisfaction.

Mr Langstaff: We certainly appreciate what the committee has done today, and it certainly does meet with our satisfaction. Thank you very much.

Ms Mary Elizabeth Kuchta: As a point of clarification, with the deletion of section 3, will the sections be renumbered appropriately?

Ms Lucinda Mifsud: Yes.

Ms Kuchta: Thank you very much.

The Chair: Always a very valid point, for those of us who don't always see what happens in the back rooms of this place.

At this point, we move to our next order of business, which relates to our report on—

Mr Hansen: I have a quick motion.

The Chair: On what?

Mr Hansen: A motion; can I put the motion on the floor?

The Chair: We have other business. What's the motion?

Mr Hansen: It's on other business, yes. It's nothing to do with the last bill.

I'd like to put a motion on the floor that as Mike Cooper represented all these members here today, they would do House time for him in the House in lieu of the time he spent here. Can we have a recorded vote on this?

The Chair: I have a feeling it's unanimous.

Mr Hansen: Okay. It looks like everybody's unanimous. Thank you, Mr Cooper.

The Chair: It'll appear in Hansard for everyone's edification.

REVIEW OF REGULATIONS REPORT

The Chair: Our next order of business is to ask Mr Philip Kaye to join us and to give us the regulations report. If he would join us, I think he has some good news for us.

Mr Philip Kaye: The report on the regulations filed during 1993 and the first 100 filed this year is found in two documents, one of which is dated October 1994 and

has a covering memo of November 1, 1994. Then there is a supplement dated November 28 which I prepared after a further response was received from the Ministry of Health regarding a particular regulation.

This report is organized the same way as two other reports on regulations which this committee approved earlier this year, the first and second reports of 1994, in that it's divided into three parts. There's an introduction, then there's a section on statistics—by the way, the introduction deals with the committee's mandate—and finally, the third section provides a review of the reported regulations.

Considering the limitations of time, I'll jump to the third part of the report on the reported regulations and just say, by way of background, lawyers in the legislative research service on behalf of the committee conduct an initial review of the regulations for compliance with guidelines stipulated in the standing orders. Where the research service feels there's been a potential violation of these guidelines, a letter is written to the legal branch of the ministry concerned for an explanation.

In the case of the report before the committee today, letters were written to six ministries inquiring about 44 regulations. What the research service brings to the committee's attention in the form of a draft report are two kinds of regulations, the first kind being the regulations which the ministries agree have a problem, and the second being those regulations which the ministry feels have not violated the guideline and the research service disagrees with the ministry.

In this report, as noted at the bottom of page 2, 19 regulations are commented upon, falling under six ministries. The guidelines violated are those on statutory authority, precision of language and retrospectivity.

As mentioned in my covering memo of November 1, as modified on November 28, the ministries have in effect agreed that all the reported regulations may have violated the committee's guidelines, with one exception; that's Ontario regulation 953/93 under the County of Simcoe Act, where the violation appears to be quite technical. I wish to discuss that regulation as well as Ontario regulation 20/94 with the committee, and it's this second regulation where a further response was received from the Ministry of Health.

Just to begin with the Health regulation, it deals with grants for the transportation of patients in northern Ontario, and the discussion of this regulation is found on pages 3 to 5 of the memorandum dated November 28.

There are two problems with this regulation. First of all, it was made by the Lieutenant Governor in Council when it should have been made by the Minister of Health. The Ministry of Health agrees and says it will ensure, the next time the regulation is remade, that this is corrected. In any event, the Ministry of Health also feels that since the regulation is recommended by the minister to the Lieutenant Governor in Council, in fact the spirit of the act requiring that the regulation be made by the minister has been complied with.

In the draft at the bottom of page 4 of the supplement, the committee is saying: "The committee wishes to point

out, however, that its guidelines require that regulations should be in strict accord with the statute conferring of power....It is not sufficient, then, for regulations to comply only with the spirit of the authorizing statute; there must be compliance with the letter as well."

The second problem with this regulation has to do with its scope. The Ministry of Health Act provides for regulations for the transportation of patients from one hospital or health facility to another hospital or health facility, but the travel covered in this regulation is slightly different. Grants may cover travel "between the place in northern Ontario where the patient ordinarily resides and a health care facility or the office of a specialist...." The Ministry of Health, in its letter in mid-November, agrees that the scope of the travel covered by this regulation is apparently without authority. As mentioned in my memo of November 28, the committee has three options, now that the ministry agrees that part of the regulation appears to be without authority. The three choices are:

First of all, the committee may simply make an observation, and that is to say, "The exact nature of the travel covered by the grants appears to be without statutory authorization," and end it at that point, not say anything further.

Another option for the committee is to say, "If the Ministry of Health wishes to keep the regulation as it's currently drafted, then this committee recommends that the Ministry of Health Act be amended so as to authorize the regulation." That's taking the approach of, amend the statute so that it's consistent with the regulation and authorizes the regulation.

The third option for this committee is to recommend that the regulation itself be amended in such a way that is authorized by the existing Ministry of Health Act.

In a nutshell, the three choices—considering that the Ministry of Health agrees that part of the regulation may apparently be without authority—are (1) just observe that's the case, (2) recommend that the Ministry of Health Act be amended and (3) recommend that the regulation be amended.

1150

Mr Fletcher: I would like to move that we consider option 1.

The Chair: Very good, Mr Fletcher. Any comments?

Mr Eddy: I prefer option 3 because, in my opinion, it's the proper way to go with the regulation and what's involved in amending the regulation. I certainly don't see going through the procedure of amending the act. That's time and, considering where we are in the legislative agenda, rather impossible anyway. What's involved in amending a regulation? Is it that the Minister of Health amends that and it's approved by whom? By cabinet, is it?

Mr Jordan: Cabinet.

Mr Eddy: And then published. We know it's incorrect. It's not being overcritical, but it's incorrect, so why wouldn't we want to correct it? I don't think option 1 where we say it appears to violate the act is really correct, because we know and we've been told that it

does violate, so why not correct it? Do it, but the simpler of the two ways for sure. That would be my preference.

Mr Jordan: I will support option 1 because it leaves the flexibility there. We're just observing what has been presented to us and it's up to others to follow through.

The Chair: Very good. Any further comments? Seeing none, I'm in the hands of the members. We have several opinions. Is there a motion that someone would like—

Mr Fletcher: I did move it.

Mr Hansen: Do you want to read the motion again?

The Chair: I don't have a written one.

Mr Hansen: Read option 1 so I will know whether I want to agree with it.

The Chair: Mr Kaye, option 1.

Mr Kaye: Option 1 holds that the committee simply observes that the exact nature of the travel covered by the grants in Ontario regulation 20/94 under the Ministry of Health Act appears to be without statutory authorization and does not go any further.

Mr Hansen: That would be my choice.

Mrs MacKinnon: From the way you've just read that, sir, it appears to me—correct me if I'm wrong, but that really doesn't go far enough.

Mr Kaye: It's really a case of the committee deciding how far it wishes to go. The terms of reference of this committee empower it to express its observations, opinions and recommendations. If the committee decides to observe only, it is entitled to do that. If the committee decides that it wishes to make a recommendation, it can do that as well.

Mrs MacKinnon: Could I hear option 3, please?

Mr Kaye: Under option 3, the committee recommends that Ontario regulation 20/94 be amended in such a way that it is authorized by the existing Ministry of Health Act.

Mrs MacKinnon: What basically does that mean?

Mr Kaye: It means that the regulation would be changed so that the kind of travel which the Ministry of Health Act provides for would be the travel covered by the regulation because the act says regulations may be made for the transportation of patients from one hospital or health facility to another hospital or health facility.

The regulation says something slightly different from that. It provides for grants for travel not from one hospital or health facility but between the place in northern Ontario where the patient ordinarily resides and a health care facility or the office of a specialist. If the recommendation of the committee is that the regulation be amended, the wording of the regulation would have to change so that the grants would cover travel from one hospital or health facility as opposed to from the place in northern Ontario where the patient ordinarily resides.

Mrs MacKinnon: It would appear to me, and I could stand to be corrected, that there should be some provision whereby somebody in northern Ontario can indeed, if necessary, be transported from their place of normal residency and/or a health facility that they may find

themselves in at the time that it's deemed necessary to transport them to another health facility, be it hospital, specialist or whatever. It seems to me that they should have it so it can either be from the home or from the doctor's office or from the hospital, because if you're sick, you're sick; it doesn't matter where you are.

Mr Eddy: Sorry to ask another question. It seems to me, though, that by going to option 3, we're not only correcting what has been done, we're providing for the same action in the future which I think we agree with. Is that the way you see it? If the regulation is changed and if there's a similar occurrence in the future, it's covered. I think it needs to be covered. Am I off base in saying that?

Mr Kaye: It would be covered under the new regulation, but the regulation would provide for slightly different grants if it's changed. A recommendation to amend the regulation would change the grant program slightly.

Mr Eddy: But it's already been changed because of what has been, you might say, mispaid under the present regulation if the regulation doesn't cover it. What I'm really asking is: If we go to option 3, does it mean that in addition to correcting, making the payment agree with the regulation—in other words, the regulation covers the expenditure that's been made—will it also cover future expenditures that may be made for similar occurrences?

Mr Kaye: It's my understanding that would be the case.

Mr Eddy: That is the case? That's why I'm more anxious to go to 3, because I think we're doing more than just the past incident or occurrence. I don't know whether others agree with that.

Mrs MacKinnon: I think number 3 is just a little more comprehensive.

Mr Eddy: That's the way I see it.

The Chair: If I may remind members, Mr Fletcher has moved a motion, just to be clear in terms of how we would vote on this. Obviously, members are free to decide for themselves, but Mr Fletcher has put forward a motion that he moves option 1, which is strictly the observation. At this point I'm going to ask members if they're prepared to vote.

Mr Eddy: The problem is—

The Chair: No, no. All those in favour of Mr Fletcher's motion to support option 1, please signify. Opposed, please indicate. Option 1 is carried.

Mr Eddy: In that case, that we're just observing it, should we notify the Ministry of Health that it shall not make similar expenditures in contravention of this regulation in the future? That's what we're saying.

The Chair: Mr Kaye, your next procedure would be? I just want to get a procedural question addressed. Would you be informing the ministry yourself about what the vote had been at this committee, or is it up to the committee to inform?

Mr Kaye: It's usually up to the committee in the form of its report to express its conclusions.

The Chair: Very good.

Mr Jordan: Relative to my colleague's statement, I would like the Minister of Health to have the freedom to exercise his or her authority. We're getting everybody so regulated nowadays, for God's sake, that the minister can't really do very much without some documentation from the bureaucracy. I would say, let the minister have the authority and exercise it as need be, and especially for northern Ontario.

The Chair: We have one more piece of business before we close.

Mr Eddy: But that is precisely the problem here. You've got a restrictive regulation and by going to option 3 you'd open it up so that this similar thing could be—

Interjections.

The Chair: Ladies and gentlemen, we've moved a motion and it's been passed. You may have some disagreement with it, but I think that's the nature of the beast here.

We have one other small piece of business I'd like to conclude before we come up to this.

Mr Kaye: There's just one other aspect of the report I wish to raise with committee members. It's a very technical question and it has to do with a regulation under the County of Simcoe Act. It's discussed on pages 9 and 10. Part 1 of this regulation appears to have been made under a provision which says: "The minister may during 1994 make regulations." Part 1 did not come into force until January 1, 1994, but it wasn't made during 1994, it was made on December 23, 1993.

The question I have for the committee really has two parts: Does the committee consider this to be a violation of the guideline that regulations should be in strict accord with the authorizing statute because it was made a few days prior to January 1994? Secondly, even if the committee considers this to be a violation, is it just so technical that it should not be included in the report?

Mr Jordan: I agree, it should not be included.

The Chair: There's a consensus around the latter. That's, I think, what should be reflected in the report. Is there anything additional you wish to raise?

Mr Kaye: No, that covers the points I wish to discuss.

The Chair: Thank you. I want to commend my colleagues; you have been extremely helpful. But don't run away, we have one more point.

Shall the report carry? Carried.

Shall the Chair be authorized to table the report in the House? Agreed.

I have a couple of notes here; just one second. Do they want the report tabled by tomorrow before it is printed, since we will probably prorogue and end this session? The other option is to table it in the new session, or if the House passes a motion to allow committees to table

reports during the intersession or recess.

Mr Fletcher: Let's do it tomorrow.

The Chair: Do it tomorrow.

Clerk of the Committee (Ms Tonia Grannum): Before it's printed? Okay.

The Chair: We've obviously done something that other committees have not been able to do. We've done three reports. We've actually done a lot of legislation, and I appreciate your cooperation throughout.

My final point: You can in fact give the Chair and the parliamentary assistant a wonderful vacation by joining the conference of delegated legislation committees and scrutiny of bills committees in the Northern Territory of Australia.

Interjection.

Mrs MacKinnon: That's open for debate.

The Chair: I suspect it would be. In any case, I should advise you all, we have received an invitation from Australia, the Legislative Assembly of the Northern Territory, which is hosting a conference in 1995, in July—their winter, not summer. They had asked that we give them some idea if we would be going by the end of November. We've passed that by two weeks, but that's a minor detail, I suspect. The registration fee is \$200, for those people who are not members, what have you. I'm in the hands of the committee on how best to proceed.

Mr Hayes: Looks like a lot of interest.

The Chair: They're dumfounded, I think, is really the case.

Mr Jordan: I think we should have representation.

Mr Hayes: I think the Chair and PA should go.

The Chair: We have many volunteers at this point.

Mr Jordan: I could volunteer as a flight attendant.

The Chair: My own reading of this is that in all likelihood, this won't happen. Knowing what is happening with any travelling committees, this would not be high on a priority list, but it's always wise to inform members of our correspondence. I'm in your hands. You're nodding your head, Mr Cooper. What is the motion?

Mr Cooper: I think, judging from past experience, that this just be filed.

The Chair: I don't think we're going to get this, but I thought you should know that we've been invited.

Mrs MacKinnon: If you want to go, go yourself.

The Chair: Noted and filed. I'd like the trip, but I know it's not going to happen.

Mr Hayes: I'd like to wish everybody a Merry Christmas and Happy New Year.

The Chair: I see you're wearing your Santa Claus tie. I hereby adjourn. Thanks to all.

The committee adjourned at 1205.

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

- ***Chair / Présidente:** Haeck, Christel (St Catharines-Brock ND)
- ***Vice-Chair / Vice-Présidente:** MacKinnon, Ellen (Lambton ND)
- *Eddy, Ron (Brant-Haldimand L)
- *Fletcher, Derek (Guelph ND)
- *Hansen, Ron (Lincoln ND)
- *Hayes, Pat (Essex-Kent ND)
- *Hodgson, Chris (Victoria-Haliburton PC)
- *Jordan, Leo (Lanark-Renfrew PC)
- Mills, Gordon (Durham East/-Est ND)
- *O'Neil, Hugh P. (Quinte L)
- Perruzza, Anthony (Downsview ND)
- *Ruprecht, Tony (Parkdale L)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Cooper, Mike (Kitchener-Wilmot ND) for Mr Perruzza
Rizzo, Tony (Oakwood ND) for Mr Mills

Also taking part / Autres participants et participantes:

Ministry of Municipal Affairs:

Hayes, Pat, parliamentary assistant to the minister
Murray, Paul, legal counsel

Clerk / Greffière: Grannum, Tonia

Staff / Personnel:

Kaye, Philip, research officer, Legislative Research Service
Mifsud, Lucinda, legislative counsel

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